

Risk Reduction Committee Meeting
2019 Texas REALTORS® Conference

Friday, September 13, 2019
11:45 a.m. – 12:15 p.m.
Ballroom B
Fort Worth Convention Center
Fort Worth, Texas

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I. Call to Order	Terri Covington, Chair
II. Minutes	Terri Covington, Chair
III. State & Federal Issues Update	
a. New Legislation	Kelly Flanagan, Staff Attorney
b. Case Law	David Jones, Staff Attorney Lori Levy, General Counsel
c. Copyright Issues	Abby Lee, Staff Attorney
IV. Association Update	Cathy Trevino, Liaison
a. Forms	
V. TREC Update	Leigh York, Vice Chair
a. Forms	
b. Rule Changes	
VI. Unfinished Business	Terri Covington, Chair
VII. New Business	Terri Covington, Chair
VIII. Adjourn	Terri Covington, Chair

Meeting minutes
Risk Reduction Committee
Regular meeting – February 9, 2019
Austin, TX
Minutes recorded by: Abby Lee

Chair Terri Covington called the meeting to order at approximately 11:53 a.m. Roll was called and a quorum was established. Chair Covington asked for any corrections to the meeting minutes from either the February 2018 or the September 2018 meeting. The minutes were approved as distributed.

Liaison Cathy Trevino provided an update on the Texas REALTORS® Legal Hotline, and the new model copyright forms. Vice Chair Leigh York provided an update on changes to TREC forms and other TREC rules.

During the state and federal issues update, Associate Counsel Hunter Jackson reported on several ongoing lawsuits related to issues like the Association's Seller's Disclosure Notice, square footage misrepresentations, and fees for late rental payments.

There was no unfinished business.

Under new business, Chair Covington encouraged the committee to attend the upcoming REALTOR® Day at the Texas Capitol.

The meeting was adjourned at 12:10 p.m.

Roll:

	Name	Present
1	Barbara Trumbull	x
2	Diana Ayers	x
3	Jan Miller	x
4	Joanne Justice	x
5	Lisa Nettey	
6	Ann Walker	
7	Denise Price	
8	Derek Westley	x
9	Doug Srader	
10	Bob Baker	x
11	Cathy Mitchell	
12	Cathy Trevino	x
13	Ivy Boland	x
14	Kandi Luensmann	x
15	Leigh York	x
16	Moiri Brown	x
17	Monica Atkins	x
18	Myra Oliver	
19	Pam Titzell	x
20	Sheila Stanush	x
21	Terri Covington	x

How Changes in the Law Affect Your Business

Introductions

- Lori Levy, General Counsel
- Daniel Gonzalez, Director of Legislative Affairs
- Kelly Flanagan, Legislative Counsel
- Abby Lee, Senior Associate Counsel
- David Jones, Associate Counsel

2019 Regular Session Recap

- 7,851 bills filed, and 1,506 bills passed (19%).
- Main themes:
  - Property Tax Reform and Transparency (SB 2)
  - School Finance Reform (HB 3)
- TREC Sunset
- Of note, generally:
  - Municipal annexation
  - Declared disasters

What Changes in the Law Mean for Yo

- Licensing
- General Business Operations
- Sales Transactions
- Leasing & Property Management
- Guns on Property

Licensing

- HB 1342
- SB 1217
- SB 37
- SB 1200
- SB 1995

Licensing

HB 1342

Relating to the consequences of a criminal conviction on a person's eligibility for an occupational license.

SB 1217

Relating to the consideration of certain arrests in determining an applicant's eligibility for an occupational license.

Licensing

SB 37

Relating to a prohibition on the use of student loan default or breach of a student loan repayment or scholarship contract as a ground for refusal to grant or renew an occupational license or other disciplinary action in relation to an occupational license.

Licensing

SB 1200

Relating to the authority of certain military spouses to engage in a business or occupation in this state.

Licensing

SB 1995

Relating to the review of certain occupational licensing rules by the office of the governor.

General Business Operations

- HB 3609
- SB 1258
- SB 2342
- HB 101

General Business Operations

HB 3609

Relating to the filing of an assumed name certificate by certain business entities.

General Business Operations

SB 1258

Relating to the prosecution of limited liability companies and other business entities under the Penal Code.

General Business Operations

SB 2342

Relating to the jurisdiction of, and practices and procedures in civil cases before, justice courts, county courts, statutory county courts, and district courts.

General Business Operations

HB 1012

Relating to the creation of the criminal offense of false caller identification information display.

Sales Transactions

- HB 1743
- HB 3815/SB 339
- SB 442

Sales Transactions

HB 1743

Relating to the additional ad valorem tax and interest as a result of a change of use of certain land *(i.e.*, rollback taxes).

Sales Transactions

HB 3815 / SB 339

Relating to a seller's disclosure notice for residential property regarding floodplains, flood pools, floodways, or reservoirs.

Sales Transactions

SB 442

Relating to a disclosure regarding flood coverage under a commercial or residential property insurance policy.

Leasing & Property Management

- HB 69
- HB 1002
- SB 234
- SB 1414
- HB 1152
- HB 4390

Leasing & Property Management

HB 69

Relating to the right to vacate and avoid liability under a residential lease after a tenant's death.

Leasing & Property Management

HB 1002

Relating to the term of a parking permit issued to a residential tenant by a landlord.

Leasing & Property Management

SB 234

Relating to the right to vacate and avoid residential lease liability following the occurrence of family violence.

Leasing & Property Management

SB 1414

Relating to fees regarding a residential tenant's failure to timely pay rent.

Leasing & Property Management

HB 1152

Relating to the deceptive trade practice of charging exorbitant or excessive prices for necessities during a declared disaster.

Leasing & Property Management

HB 4390

Relating to the privacy of personal identifying information.

Guns on Property

- HB 121
- HB 302
- SB 741
- SB 772

Guns on Property

HB 121

Relating to a defense to prosecution for the offense of trespass by certain persons carrying handguns.

Guns on Property

HB 302

Relating to the carrying, storage, or possession of a firearm or firearm ammunition by certain persons on certain residential or commercial property.

Guns on Property

SB 741

Relating to restrictive covenants regarding firearms or firearm ammunition.

Guns on Property

SB 772

Relating to evidence in certain civil actions of a person's failure to forbid handguns on certain property.

What Changes in the Law Mean for Your Business



Questions?



TEXAS REALTORS

AN ACT

relating to a seller's disclosure notice for residential property regarding floodplains, flood pools, floodways, or reservoirs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 5.008(b), Property Code, is amended to read as follows:

(b) The notice must be executed and must, at a minimum, read substantially similar to the following:

SELLER'S DISCLOSURE NOTICE

CONCERNING THE PROPERTY AT _____
(Street Address and City)

THIS NOTICE IS A DISCLOSURE OF SELLER'S KNOWLEDGE OF THE CONDITION OF THE PROPERTY AS OF THE DATE SIGNED BY SELLER AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PURCHASER MAY WISH TO OBTAIN. IT IS NOT A WARRANTY OF ANY KIND BY SELLER OR SELLER'S AGENTS.

Seller __ is __ is not occupying the Property.

If unoccupied, how long since Seller has occupied the Property?

_____

1. The Property has the items checked below:

Write Yes (Y), No (N), or Unknown (U).

__ Range	__ Oven	__ Microwave
__ Dishwasher	__ Trash Compactor	__ Disposal
__ Washer/Dryer Hookups	__ Window Screens	__ Rain Gutters
__ Security System	__ Fire Detection Equipment	__ Intercom System
	__ Smoke Detector	
	__ Smoke Detector - Hearing Impaired	
	__ Carbon Monoxide	

	Alarm	
	__ Emergency Escape Ladder(s)	
__ TV Antenna	__ Cable TV Wiring	__ Satellite Dish
__ Ceiling Fan(s)	__ Attic Fan(s)	__ Exhaust Fan(s)
__ Central A/C	__ Central Heating	__ Wall/Window Air Conditioning
__ Plumbing System	__ Septic System	__ Public Sewer System
__ Patio/Decking	__ Outdoor Grill	__ Fences
__ Pool	__ Sauna	__ Spa
		__ Hot Tub
__ Pool Equipment	__ Pool Heater	__ Automatic Lawn Sprinkler System
__ Fireplace(s) & Chimney (Woodburning)		__ Fireplace(s) & Chimney (Mock)
__ Natural Gas Lines		__ Gas Fixtures
__ Liquid Propane Gas:	__ LP Community (Captive)	__ LP on Property
Garage: __ Attached	__ Not Attached	__ Carport
Garage Door Opener(s):	__ Electronic	__ Control(s)
Water Heater:	__ Gas	__ Electric
Water Supply: __ City	__ Well __ MUD	__ Co-op

Roof Type: _____ Age: _____(approx)

Are you (Seller) aware of any of the above items that are not in working condition, that have known defects, or that are in need of repair? __ Yes __ No __ Unknown.

If yes, then describe. (Attach additional sheets if necessary):

_____

_____

2. Does the property have working smoke detectors installed in accordance with the smoke detector requirements of Chapter 766, Health and Safety Code?* __ Yes __ No __ Unknown.

If the answer to the question above is no or unknown, explain. (Attach additional sheets if necessary): _____

_____

_____

*Chapter 766 of the Health and Safety Code requires one-family or two-family dwellings to have working smoke detectors installed in accordance with the requirements of the building code in effect in the area in which the dwelling is located, including performance, location, and power source requirements. If you do not know the building code requirements in effect in your area, you may check unknown above or contact your local building official for more information. A buyer may require a seller to install smoke detectors for the hearing impaired if: (1) the buyer or a member of the buyer's family who will reside in the dwelling is hearing impaired; (2) the buyer gives the seller written evidence of the hearing impairment from a licensed physician; and (3) within 10 days after the effective date, the buyer makes a written request for the seller to install smoke detectors for the hearing impaired and specifies the locations for installation. The parties may agree who will bear the cost of installing the smoke detectors and which brand of smoke detectors to install.

3. Are you (Seller) aware of any known defects/malfunctions in any of the following?

Write Yes (Y) if you are aware, write No (N) if you are not aware.

__ Interior Walls	__ Ceilings	__ Floors
__ Exterior Walls	__ Doors	__ Windows
__ Roof	__ Foundation/ Slab(s)	__ Basement
__ Walls/Fences	__ Driveways	__ Sidewalks

__ Plumbing/Sewers/ Septics __ Electrical Systems __ Lighting Fixtures

__ Other Structural Components (Describe):_____

_____

_____

If the answer to any of the above is yes, explain. (Attach additional sheets if necessary):_____

_____

_____

4. Are you (Seller) aware of any of the following conditions?

Write Yes (Y) if you are aware, write No (N) if you are not aware.

__ Active Termites (includes wood-destroying insects)
__ Termite or Wood Rot Damage Needing Repair
__ Previous Termite Damage
__ Previous Termite Treatment
[~~__ Previous Flooding~~]
__ Improper Drainage
__ Water Damage Not Due to a Flood Event [~~Penetration~~]
[~~__ Located in 100-Year Floodplain~~]
[~~__ Present Flood Insurance Coverage~~]
__ Landfill, Settling, Soil Movement, Fault Lines
__ Single Blockable Main Drain in Pool/Hot Tub/Spa*

__ Previous Structural or Roof Repair
__ Hazardous or Toxic Waste
__ Asbestos Components
__ Urea formaldehyde Insulation
__ Radon Gas
__ Lead Based Paint
__ Aluminum Wiring
__ Previous Fires
__ Unplatted Easements
__ Subsurface Structure or Pits
__ Previous Use of Premises for Manufacture of Methamphetamine

If the answer to any of the above is yes, explain. (Attach additional sheets if necessary):_____

_____

_____

*A single blockable main drain may cause a suction entrapment hazard for an individual.

5. Are you (Seller) aware of any item, equipment, or system in or on the property that is in need of repair? __ Yes (if you are aware) __ No (if you are not aware). If yes, explain (attach additional sheets as necessary).

_____

6. Are you (Seller) aware of any of the following conditions?* Write Yes (Y) if you are aware, write No (N) if you are not aware.

__ Present flood insurance coverage
__ Previous flooding due to a failure or breach of a reservoir or a controlled or emergency release of water from a reservoir
__ Previous water penetration into a structure on the property due to a natural flood event

Write Yes (Y) if you are aware and check wholly or partly as applicable, write No (N) if you are not aware.

__ Located ( ) wholly ( ) partly in a 100-year floodplain (Special Flood Hazard Area-Zone A, V, A99, AE, AO, AH, VE, or AR)
__ Located ( ) wholly ( ) partly in a 500-year floodplain (Moderate Flood Hazard Area-Zone X (shaded))
__ Located ( ) wholly ( ) partly in a floodway
__ Located ( ) wholly ( ) partly in a flood pool
__ Located ( ) wholly ( ) partly in a reservoir

If the answer to any of the above is yes, explain (attach additional sheets as necessary): _____

_____

*For purposes of this notice:

"100-year floodplain" means any area of land that:

(A) is identified on the flood insurance rate map as a special flood hazard area, which is designated as Zone A, V, A99, AE, AO, AH, VE, or AR on the map;

(B) has a one percent annual chance of flooding, which is considered to be a high risk of flooding; and

(C) may include a regulatory floodway, flood pool, or

reservoir.

"500-year floodplain" means any area of land that:

(A) is identified on the flood insurance rate map as a moderate flood hazard area, which is designated on the map as Zone X (shaded); and

(B) has a two-tenths of one percent annual chance of flooding, which is considered to be a moderate risk of flooding.

"Flood pool" means the area adjacent to a reservoir that lies above the normal maximum operating level of the reservoir and that is subject to controlled inundation under the management of the United States Army Corps of Engineers.

"Flood insurance rate map" means the most recent flood hazard map published by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Section 4001 et seq.).

"Floodway" means an area that is identified on the flood insurance rate map as a regulatory floodway, which includes the channel of a river or other watercourse and the adjacent land areas that must be reserved for the discharge of a base flood, also referred to as a 100-year flood, without cumulatively increasing the water surface elevation more than a designated height.

"Reservoir" means a water impoundment project operated by the United States Army Corps of Engineers that is intended to retain water or delay the runoff of water in a designated surface area of land.

7. Have you (Seller) ever filed a claim for flood damage to the property with any insurance provider, including the National Flood

Insurance Program (NFIP)?* __ Yes __ No. If yes, explain (attach additional sheets as necessary): _____

_____

*Homes in high risk flood zones with mortgages from federally regulated or insured lenders are required to have flood insurance. Even when not required, the Federal Emergency Management Agency (FEMA) encourages homeowners in high risk, moderate risk, and low risk flood zones to purchase flood insurance that covers the structure(s) and the personal property within the structure(s).

8. Have you (Seller) ever received assistance from FEMA or the U.S. Small Business Administration (SBA) for flood damage to the property? __ Yes __ No. If yes, explain (attach additional sheets as necessary): _____

_____

9. Are you (Seller) aware of any of the following?

Write Yes (Y) if you are aware, write No (N) if you are not aware.

__ Room additions, structural modifications, or other alterations or repairs made without necessary permits or not in compliance with building codes in effect at that time.
__ Homeowners' Association or maintenance fees or assessments.
__ Any "common area" (facilities such as pools, tennis courts, walkways, or other areas) co-owned in undivided interest with others.
__ Any notices of violations of deed restrictions or governmental ordinances affecting the condition or use of the Property.
__ Any lawsuits directly or indirectly affecting the Property.
__ Any condition on the Property which materially affects the physical health or safety of an individual.
__ Any rainwater harvesting system located on the property that is larger than 500 gallons and that uses a public water supply as an auxiliary water source.
__ Any portion of the property that is located in a groundwater conservation district or a subsidence district.

If the answer to any of the above is yes, explain. (Attach

additional sheets if necessary): _____

_____

_____

10 [~~7~~]. If the property is located in a coastal area that is seaward of the Gulf Intracoastal Waterway or within 1,000 feet of the mean high tide bordering the Gulf of Mexico, the property may be subject to the Open Beaches Act or the Dune Protection Act (Chapter 61 or 63, Natural Resources Code, respectively) and a beachfront construction certificate or dune protection permit may be required for repairs or improvements. Contact the local government with ordinance authority over construction adjacent to public beaches for more information.

11 [~~8~~]. This property may be located near a military installation and may be affected by high noise or air installation compatible use zones or other operations. Information relating to high noise and compatible use zones is available in the most recent Air Installation Compatible Use Zone Study or Joint Land Use Study prepared for a military installation and may be accessed on the Internet website of the military installation and of the county and any municipality in which the military installation is located.

_____ _____

Date Signature of Seller

The undersigned purchaser hereby acknowledges receipt of the foregoing notice.

_____ _____

Date Signature of Purchaser

SECTION 2. Section 5.008, Property Code, as amended by this Act, applies only to a contract for the sale of real property

entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect on the date the contract was entered into, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 339 passed the Senate on April 24, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 339 passed the House on May 22, 2019, by the following vote: Yeas 129, Nays 15, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor

AN ACT

relating to the filing of an assumed name certificate by certain business entities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 71.103(a), Business & Commerce Code, is amended to read as follows:

(a) A [~~The~~] corporation, limited partnership, limited liability partnership, limited liability company, or foreign filing entity required to file a certificate under Section 71.101 shall file the certificate in the office of the secretary of state [~~and in the office or offices of each county clerk as specified by Subsection (b) or (c)~~].

SECTION 2. Sections 71.103(b) and (c) and 71.104(b), Business & Commerce Code, are repealed.

SECTION 3. The repeal by this Act of Sections 71.103(b) and (c) and 71.104(b), Business & Commerce Code, and the changes in law made by this Act to Section 71.103(a), Business & Commerce Code, apply only to an offense under Section 71.202, Business & Commerce Code, committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and that law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. This Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I certify that H.B. No. 3609 was passed by the House on May 7, 2019, by the following vote: Yeas 146, Nays 0, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3609 was passed by the Senate on May 22, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

_____

Governor

National Association of Realtors® Moves to Dismiss Antitrust Suits; Shows Lawsuits Are Self-Contradictory, Ignore Precedent and Lack Economic Sense

August 13, 2019
Media Contact: Wesley Shaw 202-383-1193, Mantill Williams 202-383-1128
Antitrust

CHICAGO, August 12, 2019 – The National Association of REALTORS® (NAR) moved last week to dismiss the Moehrl v. NAR lawsuit and the copycat Sitzer v. NAR lawsuit because both amended complaints fail to show how NAR rules for the operation of Multiple Listing Services (MLSs) inhibit competition or cause the plaintiffs any harm. Moreover, the complaints misrepresent rules which have long been recognized by the courts across the country as protecting consumers and creating competitive, efficient markets that benefit home buyers and sellers.

“Throwing around a few anti-trust buzzwords doesn’t change the fact that MLSs have contributed to an orderly, efficient and pro-consumer marketplace for well over 100 years,” said John Smaby, President of NAR. “We continue to believe the lawsuits are wrong on the facts, wrong on the economics and wrong on the law.”

As NAR’s briefs detail, the essence of the plaintiffs’ argument is based on a flawed interpretation of the NAR Handbook on Multiple Listing Policy and Code of Ethics. According to NAR’s filings, misrepresenting NAR rules with “pejorative” and “anticompetitive-sounding” language does not outweigh the decades of court rulings that have found NAR rules to be pro-competitive and serve the best interests of consumers through enhanced transparency and efficiency.

“The MLS system creates highly competitive, efficient markets with increased transaction volume and superior customer service that benefit home buyers and sellers,” said Smaby.

NAR’s filings to dismiss also set forth the failure of the class action attorneys to meet legal standards necessary to move their case forward. As the briefs state, the “plaintiffs have totally ignored the long antitrust scrutiny of the MLSs and the repeated judicial conclusion that MLSs and the rules that govern them are pro-competitive.” Furthermore, NAR’s filings note that the plaintiffs’ claims lack any evidence that they were actually harmed by NAR rules. Per the brief, the plaintiffs “have not alleged that they even attempted to negotiate a lower commission either from their listing broker or for the buyer’s broker,” which, as noted above, is allowed by NAR rules anyway, contrary to their claims.

The National Association of REALTORS® is America's largest trade association, representing more than 1.3 million members involved in all aspects of the residential and commercial real estate industries.

###

EBBY HALLIDAY REAL ESTATE, INC., Appellant,

v.

KEVIN DUGAS, Appellee.

No. 05-17-01028-CV.

Court of Appeals of Texas, Fifth District, Dallas.

Opinion Filed April 9, 2019.

Thomas E. Shaw, Marc C. Tecce, for Kevin Dugas, Appellee.

Laurellen Ratliff, for Texas Association of Realtors, Amicus Curiae.

J. Kent Newsom, for Ebby Halliday Real Estate, Inc., Appellant.

On Appeal from the County Court at Law No. 3 Dallas County, Texas, Trial Court Cause No. CC-15-04871-C.

REVERSE and RENDER.

Before Justices Brown, Schenck, and Pedersen, III.

MEMORANDUM OPINION

Opinion by Justice BILL PEDERSEN, III.

This appeal arises from the sale of a condominium unit. The buyer, Kevin Dugas, claims the seller's agent, Ebby Halliday Real Estate, Inc. (Ebby), misrepresented the property's square footage. Ebby appeals a jury verdict awarding Dugas damages. Among other issues, Ebby challenges the legal sufficiency of the evidence to support the jury's finding that Ebby made a false representation. We conclude the evidence is legally insufficient to support the jury's finding. We therefore reverse and render.

BACKGROUND

The seller, Elizabeth McLarry, retained Ebby to put her condominium unit on the market. Karen Estes, a salesperson employed by Ebby, listed the property on the Multiple Listing Service (MLS).[1] The MLS database contains a drop-down menu from which the listing agent can select "appraisal," "builder," "tax," or "other" as the source of the subject home's square-footage information. Estes selected "tax" for the unit in question, as do most agents when listing properties. Based on this selection, the MLS database accessed the unit's square footage from Dallas Central Appraisal District (DCAD) records and uploaded this information into the MLS listing. The listing noted the property's square footage as "1,178/Tax." The listing also contained a narrative field prepared by Estes in which she described the property as a "[d]arling 1,178 sq. ft." unit. The foregoing descriptions were consistent with DCAD's records, which list both the "[l]iving [a]rea" and the "[t]otal [a]rea" of the unit as 1,178 square feet. However, this is not the unit's "livable" square footage. This number includes the balcony and garage.

Dugas's agent, Lisa DeWaal, gave him a copy of the MLS listing. Dugas was a first time home buyer, and he relied on the listing's description of the property's square footage in deciding to make an offer to purchase the property. Dugas purchased the condominium in March 2015 for $130,000. Although a buyer's lender typically requires an appraisal of the property, in this case Dugas borrowed the purchase money from his father. Thus, no appraisal was performed. After the transaction closed, Dugas measured the unit and discovered that its "livable" square footage—i.e., the interior climate-controlled space *excluding* the balcony and garage—was only 885 square feet. In other words, the unit was approximately twenty-five percent smaller than Dugas had understood it to be.

Dugas sued Ebby and Estes and asserted claims for (i) violations of the Deceptive Trade Practices Act (DTPA), *see* TEX. BUS. & COM. CODE ANN. §§ 17.41-.63, (ii) statutory fraud, *see id.* § 27.01, and (iii) negligent misrepresentation. Dugas also asserted a claim against Ebby for its negligent supervision and training of Estes. The defendants generally denied Dugas's claims, and they also pleaded section 17.506 of the Business Commerce Code. *Id.* § 17.506(a)(1)-(2). This section provides an affirmative defense to a DTPA claim if the defendant gave reasonably and timely written notice to the plaintiff of the defendant's reliance on written information from official government records or other sources that, if false, the defendant did not know and could not reasonably have known of such falsity. *Id.*

Dugas's DTPA and statutory fraud claims against Ebby were tried before a jury in April 2017.[2] At the conclusion of the trial, the jury found that Ebby engaged in false, misleading, or deceptive trade practices and committed statutory fraud. The jury awarded Dugas $32,335.48, which is the amount that he claims he overpaid for the subject unit, plus additional sums for attorney's fees. However, in response to Question 2 of the charge, the jury found for Ebby regarding its DTPA affirmative defense.

Following the jury's verdict, Dugas filed a motion for entry of judgment and to disregard certain answers in the verdict. Ebby countered by filing a motion for judgment notwithstanding the verdict. On June 26, 2017, the court held a hearing on both motions. A little over a month later, on July 31, the court rendered judgment awarding Dugas $32,335.48, plus additional sums for attorney's fees. The judgment also awarded Dugas pre- and post-judgment interest and costs. Moreover, the judgment stated the court had disregarded the jury's answer to Question 2 because no evidence supported this answer. Ebby then filed this appeal.

ANALYSIS

I. Statutory Fraud

Ebby raises eight issues, two of which relate to Dugas's DTPA claim, four of which relate to his statutory fraud claim, and two of which relate to other topics. It appears that the court's judgment awarded damages to Dugas based on his statutory fraud claim.[3] Therefore, we will begin by considering Ebby's issues related to Dugas's fraud claim. Question 5 of the court's charge asked whether Ebby "committed statutory fraud" against Dugas. According to the charge, statutory fraud occurs when, among other elements, "there is a false representation of a past or existing material fact." *See* TEX. BUS. & COM. CODE ANN. § 27.01(a)(1) (providing statutory basis for the foregoing definition). The jury answered "yes" to Question 5. It also found, in response to Question 6, that Ebby was not actually aware that the subject representation was false. *See id.* § 27.01(c) (providing for exemplary damages if a defendant makes a false representation with actual awareness of such falsity). Ebby's third issue challenges the legal sufficiency of the evidence to support the jury's finding that Ebby misrepresented the size of the condominium unit.

To prevail on this issue, Ebby must demonstrate that no evidence supports the jury's finding. *Graham Central Station, Inc. v. Pena*, 442 S.W.3d 261, 263 (Tex. 2014) (per curiam). "We will sustain a legal sufficiency challenge if the evidence offered to prove a vital fact is no more than a scintilla." *Id.* (citation and internal quotation marks omitted). In conducting this analysis, "we credit evidence that supports the verdict if reasonable jurors could have done so and disregard contrary evidence unless reasonable jurors could not have done so." *Id.* (citation and internal quotation marks omitted). We must determine "`whether the evidence at trial would enable reasonable and fair-minded people to reach the verdict under review.'" *Id.* (quoting *City of Keller v. Wilson*, 168 S.W.3d 802, 827 (Tex. 2005)).

As discussed previously, the MLS listing prepared by Estes referred to the subject unit as "1,178/Tax." Ebby contends this notation meant 1,178 square feet according to DCAD. It argues the MLS listing accurately reported the DCAD records' description of the property's size.[4] Dugas responds that a reasonable juror could have found that the term "/Tax" either had no meaning or meant the amount of square footage on which the unit would be taxed—in other words, the unit's "livable" square footage. In Dugas's view, Ebby's statement was false because in reality the unit had only 885 "livable" square feet. As support, he points to Estes's testimony that the reference to 1,178 square feet in Ebby's listing (i) was intended to convey "livable" square feet and (ii) was false if the actual square footage was less.

A statutory fraud clam requires proof of a misrepresentation, not an omission. TEX. BUS. & COM. CODE ANN. § 27.01(a); *cf. Bradford v. Vento*, 48 S.W.3d 749, 755 (Tex. 2001) (noting, as a general rule, that "[s]ilence may be equivalent to a false

representation only when the particular circumstances impose a duty on the party to speak and he deliberately remains silent."). We must focus on the actual language of the purported misrepresentation, i.e., "1,178/Tax," as opposed to what Ebby subjectively intended it to say. *Cf.* *Great Am. Ins. Co. v. Primo*, 512 S.W.3d 890, 893 (Tex. 2017) ("A contract's plain language controls, not what one side or the other alleges they intended to say but did not." (citation and internal quotation marks omitted)). In interpreting the term "/Tax," we may consider its commonly accepted meaning within the real estate industry. *Cf.* *RSUI Indem. Co. v. The Lynd Co.*, 466 S.W.3d 113, 121 n.1 (Tex. 2015) (stating same in context of construing undefined contract terms). However, the commonly accepted meaning "may not apply when the language and its context demonstrate that the parties intended a different meaning." *Id.*

A. What Was the Representation?

The evidence established that MLS listings can be accessed only by licensed real estate agents who are members of the MetroTex Association of Realtors, though a prospective homebuyer may obtain an individual listing from his or her agent or in an "open house." Terri Cox, a retained expert for Ebby, testified that the term "/Tax" is understood *within the real estate industry* to mean the source of the square footage information, which in this case was DCAD. Likewise, both Estes and DeWaal understood "/Tax" in the subject listing to mean that tax records were the source of the listing's description of the unit's size. In addition, both Estes and Cox testified that a home's square footage is understood in the industry to mean its "livable" square feet. Based on this evidence, we interpret "1,178/Tax" as a representation by Ebby that DCAD had reported the subject unit as 1,178 "livable" square feet.

B. Was There a Misrepresentation?

We next consider whether there is legally sufficient evidence to support the jury's finding that Ebby's "1,178/Tax" representation was false.

1. Affirmative misrepresentation

It is undisputed that the foregoing statement accurately reported what DCAD's records said. Thus, the statement was false only if a reasonable juror could interpret it as independently verifying the subject unit's "livable" square footage—i.e., that the unit was *in fact* 1,178 "livable" square feet. As support for this position, Dugas notes that the narrative field in Ebby's listing— which referred to a "darling" 1,178 square foot unit—did not restate the "/Tax" qualification that was set forth earlier in the listing. He urges that a reasonable juror could view the narrative description as an affirmation by Ebby that the unit in fact contained 1,178 "livable" square feet. Consistent with this argument, Dugas testified that he assumed Estes had verified the unit's square footage "if she was typing it herself."

We disagree with Dugas's contention, because it is inconsistent with the principle that documents should be read as a whole. *See* *J.M. Davidson, Inc. v. Webster*, 128 S.W.3d 223, 229 (Tex. 2003) ("No single provision taken alone will be given controlling effect; rather, all the provisions must be considered with reference to the whole instrument."). The listing's subsequent reference to a "darling" 1,178 square foot unit must be read in the context of its prior description of the unit as "1,178/Tax." Nor are we persuaded by Dugas's argument that Ebby's listing misrepresented the unit's price per-square-foot because such price was based on a calculation that erroneously included "non-livable" square feet. In light of the "/Tax" representation discussed above, Ebby's listing must be interpreted as representing the unit's price per square foot based on the square footage reported by DCAD, i.e., 1,178 square feet.

Dugas additionally argues that Ebby consistently claimed DCAD to be reliable even though Ebby did not know whether DCAD's records were accurate. He cites *Boles v. Aldridge,* in which the plaintiff sought to rescind a land exchange based upon the defendant's purported misrepresentations that induced the exchange. 175 S.W. 1052, 1052 (Tex. 1915). The Texas Supreme Court held that the defendant positively affirmed the truthfulness of material information obtained from a third party who had been on the subject land, notwithstanding that the defendant also stated he had never personally seen the land. *Id.* In that case, the defendant said he knew the parties who had been upon the land, "they were perfectly reliable, and he would guaranty what they had told him." *Id.* According to the Court, "[t]he positive representation as a fact of that which is untrue and concerning which a party has no knowledge is equivalent to an assertion that he knows it to be true, and, where material, is equally actionable with a statement known to be false." *Id.* The Court reversed the court of appeals'

affirmation of an instructed verdict for the defendant and remanded the case for trial on the question of whether the plaintiff relied on the defendant's representations. *Id.* at 1053.

Unlike the representation in *Boles,* Ebby's listing did not guarantee that DCAD's records were accurate. To the contrary, the listing represented that Ebby's source of information was "Deemed Reliable *But Not Guaranteed.*"[5] (Emphasis added). As noted by the *Boles* court, "what one states to another merely as his information touching the subject of a transaction will not support an action for rescission, *if such was in fact the information received, though in fact it was untrue."* 175 S.W. at1053 (emphasis added). *Boles* does not support Dugas's contention that Ebby's listing vouched for the accuracy of DCAD's records.

Dugas also cites *First Title Co. of Waco v. Garrett,* in which the Supreme Court stated that Texas law imposes a duty on a seller who makes an affirmative representation to know whether that statement is true. 860 S.W.2d 74, 76 (Tex. 1993). As explained above, Ebby's "1,178/Tax" representation relayed only that DCAD records had reported the subject unit as 1,178 "livable" square feet. *Garrett* does not support the proposition that Ebby owed a duty to verify whether these records were correct.

For each of these reasons, we conclude the evidence is legally insufficient to support a jury finding that Ebby made an affirmative misrepresentation.

B. Indirect misrepresentation

Dugas also urges that Ebby's conduct amounted to a misrepresentation. He relies on *Blanton v. Sherman Compress Co.,* in which this Court acknowledged that "`a representation literally true is actionable if used to create an impression substantially false.'" 256 S.W.2d 884, 887 (Tex. App.-Dallas 1953, no writ) (quoting 37 C.J.S. *Fraud,* § 17). Stated another way, actionable fraud includes not only a "direct lie," but also "a deceptive answer, or any other indirect but misleading language." *Id.* (citation and internal quotation marks omitted).[6]

The terms "used to create" and "deceptive" in *Blanton* suggest an intent to deceive. *See id.* at 888 ("Recovery cannot be had for a true statement misunderstood without fault or design of the speaker." (citation and internal quotation marks omitted)). Relevant to this point, Dugas notes that "[t]he presence . . . of a certain state of mind may be proved by circumstances" and that "[f]raud is deducible from artifice and concealment as well as from affirmative conduct of a character to deceive." *Campbell v. Booth,* 526 S.W.2d 167, 169 (Tex. App.-Dallas 1975, writ ref'd n.r.e.) (citing, inter alia, *Blanton,* 256 S.W.2d at 887). He also urges that Ebby's intent can be inferred from its refusal to change its business practices after becoming aware that DCAD had misstated the subject unit's "livable" square footage. *See Spoljaric v. Percival Tours, Inc.,* 708 S.W.2d 432, 434 (Tex. 1986) ("While a party's intent is determined at the time the party made the representation, it may be inferred from the party's subsequent acts after the representation is made.").

Our decision in *Blanton* dealt with an indirect misrepresentation in the context of common law fraud.[7] Assuming without deciding that a "false representation" under section 27.01(a) includes indirect misrepresentations, we must review all of the circumstantial evidence, including the competing inferences therefrom, to determine whether a reasonable juror could have found that Ebby's "1,178/Tax" representation, through literally true, was used by Ebby to create an impression that was substantially false. *See City of Keller,* 168 S.W.3d at 814 ("[W]hen the circumstantial evidence of a vital fact is meager, a reviewing court must consider not just favorable but all the circumstantial evidence, and competing inferences as well.").

Turning to the record before us, MLS rules require the listing agent to "verify and confirm the accuracy of all information furnished to Other Participants and the public." In addition, there was evidence at trial that DCAD information is often unreliable. Nevertheless, Ebby's agents rely on DCAD as their source of square footage information,[8] and they are not trained to search deed records to verify the "livable" square footage of the properties they list. Nor do agents typically hire an appraiser to measure a home. Moreover, while agents measure room dimensions when listing homes, and in this case Estes measured the dimensions of several of the subject unit's rooms, Ebby trains its agents not to "ballpark" the total "livable" square footage of a home by adding up the individual room measurements.[9]

Based on this evidence, Dugas contends that a reasonable juror could infer that Ebby actively trained its agents to rely solely on DCAD so that Ebby would not have to change its listings by reducing the reported size of the properties that it advertised for sale. In Dugas's view, the jury reasonably could have inferred that Ebby "turn[ed] a blind eye" to the

inaccuracy of DCAD's records so that Ebby could make a larger sales commission. Related to this point, Dugas contends that the unit in question has a simple layout that can easily be measured. Dugas himself measured the unit after purchasing it and discovered its "livable" square footage to be 885 square feet.

Based on our review of each piece of the circumstantial evidence in light of all the known circumstances, *City of Keller,* 168 S.W.3d at 813-14, we conclude that no reasonable juror could infer that Ebby acted with the intent to deceive Dugas. Specifically, Ebby's measurement of the dimensions of certain rooms in the subject condominium does not establish that it knew DCAD's records were wrong regarding the condominium's total "livable" square footage. Moreover, while Ebby could have—and according to Dugas's interpretation of the MLS rules, should have— independently verified the accuracy of the DCAD records, there is no evidence that Ebby chose not to do so out of a concern that it might discover the records to be wrong, as opposed to some other innocent reason.

In sum, the evidence at most gives rise to equal inferences of both fraudulent and non-fraudulent conduct. *See City of Keller,* 168 S.W.3d at 813 ("When the circumstances are equally consistent with either of two facts, neither fact may be inferred." (citation and internal quotation marks omitted)). Accordingly, a reasonable juror could not have inferred that Ebby made an indirect misrepresentation. Our conclusion in this respect is consistent with the jury's determination, in response to Question 6, that Ebby did not have actual awareness that the subject representation was false.

For each of the foregoing reasons, the evidence is legally insufficient to support the jury's finding in response to Question 5 that Ebby misrepresented a past or existing material fact. We sustain Ebby's third issue.

II. Deceptive Trade Practices Act

Ebby's first issue challenges the legal sufficiency of the evidence to support the jury's finding that Ebby violated the DTPA. Pertinent to this issue, Question 1 of the charge asked whether Ebby "engaged in any false, misleading, or deceptive act or practice." The charge defined "[f]alse, misleading, or deceptive act or practice" as "any of the following":

> 1. representing that goods[[10]] had or would have characteristics that they did not have;
>
> 2. representing that goods have quantities which they do not have;
>
> 3. advertising goods with the intent not to sell them as advertised; or
>
> 4. failing to disclose information concerning goods which was known at the time of the transactions when such failure to disclose such information was intended to induce the consumer into a transaction into which the consumer would not have entered had the information been disclosed.

See TEX. BUS. & COM. CODE ANN. § 17.46(b)(5), (9), (24) (providing statutory basis for the foregoing definitions). The jury answered "yes" to Question 1. It also found in response to Question 4 that Ebby committed a "[k]nowing[ ]" DTPA violation—in other words, with "actual awareness, at the time of the conduct[,] of the falsity, deception[,] or unfairness of the conduct in question." However, in response to Question 2, the jury found for Ebby with respect to its DTPA affirmative defense. Specifically, the jury found, among other elements with respect to this defense, that Ebby did not know and could not reasonably have known that the records or sources on which it relied were false. *See* TEX. BUS. & COM. CODE ANN. § 17.506(b)(1)-(2). As described previously, the court's judgment disregarded the jury's answer to this question.

Items 1 through 3 of Question 1 articulate certain types of affirmative misrepresentations that are actionable under the DTPA. "A seller and [its] agent are liable under the DTPA for affirmative misrepresentations, notwithstanding the agent's lack of knowledge or notice of falsity." *Camden Mach. & Tool, Inc. v. Cascade Co.*, 870 S.W.2d 304, 311-12 (Tex. App.-Fort Worth 1993, no writ). As discussed above, no legally sufficient evidence supports a jury finding that Ebby made an affirmative misrepresentation to Dugas.

In addition, item 4 of Question 1 notes that a failure to disclose is actionable under the statute if the seller at the time knew of the subject information that should have been disclosed. *See* TEX. BUS. & COM. CODE ANN. § 17.46(b)(24). The statute requires actual knowledge of the non-disclosed information. *Pfeiffer v. Ebby Halliday Real Estate, Inc.*, 747 S.W.2d 887, 889-90 (Tex. App.-Dallas 1988, no writ).[[11]] As described herein, the evidence suggests that Ebby reasonably could have determined the subject unit measured less than 1,178 "livable" square feet. However, there is no evidence that Ebby

actually knew this information when the transaction closed. Moreover, as noted above, the jury found in response to Question 2 that Ebby did not know and could not reasonably have known that the records or sources on which it relied were false. Absent actual knowledge by Ebby, the evidence is legally insufficient to support a finding in response to item 4 that Ebby knowingly failed to disclose that the unit was only 885 "livable" square feet. We sustain Ebby's first issue.

CONCLUSION

Based upon our review of the evidence, we conclude that no reasonable or fair minded juror could have found that Ebby made a misrepresentation or that it was aware at the time that DCAD's records were incorrect. Accordingly, the evidence is legally insufficient to support the jury's verdict. Given this holding, we need not consider Ebby's remaining issues. We reverse the court's judgment and render judgment that Dugas take nothing.

JUDGMENT

In accordance with this Court's opinion of this date, the judgment of the trial court is REVERSED and judgment is RENDERED that appellee KEVIN DUGAS take nothing.

It is ORDERED that appellant EBBY HALLIDAY REAL ESTATE, INC. recover its costs of this appeal from appellee KEVIN DUGAS.

[1] It is undisputed that "[a]t all times relevant to the claims in this lawsuit," Estes "was acting on behalf of and as an agent of [Ebby] and in the course and scope of her agency for [Ebby's] benefit."

[2] Dugas's negligent misrepresentation and negligent supervision and training claims were not submitted to the jury, nor were any of his claims against Estes. However, the court's judgment, rendered on July 31, 2017, "finally dispose[d] of all parties and claims."

[3] Specifically, the judgment did not reduce Dugas's damages award despite the jury's finding that Dugas was sixteen percent responsible for his damages and DeWaal was forty percent responsible for Dugas's damages. The fact that Dugas's damages were not reduced suggests that his statutory fraud claim was the basis for the judgment's damages award. *See* *LandAmerica Commonwealth Title Co. v. Wido*, No. 05-14-00036-CV, 2015 WL 6545685, at *11 (Tex. App.-Dallas Oct. 29, 2015, no pet.) (mem. op.) ("[P]roportionate responsibility does not apply to statutory fraud.").

[4] Ebby points to Dugas's concession at trial that Ebby's listing was not a misrepresentation if it were interpreted as simply reporting that DCAD records showed the property to be 1,178 square feet. Dugas also testified that, at the time of the subject transaction, he did not understand what "/Tax" meant.

[5] The phrase "deemed reliable but not guaranteed" appeared in Ebby's listing on the same line as the copyright, which referred to "NTREIS" (also known as the North Texas Real Estate Information Systems, Inc.). Dugas cites section 16.07 of the MLS rules, which requires that the "[p]ublication or display of MLS data must include a notice indicating that the data is deemed reliable, but is not guaranteed accurate *by the MLS or NTREIS.*" (Emphasis added). Based on this provision, he appears to interpret the term "not guaranteed" in the subject listing as meaning only that the MLS and NTREIS had not guaranteed the listing's source information, as opposed to an interpretation that Ebby had not guaranteed this information. We disagree with Dugas's interpretation. Notwithstanding the MLS rules, the term "not guaranteed" in Ebby's listing contains no qualification as to who was "not guarantee[ing]" the source information. Absent such a qualification, we construe Ebby's listing as meaning that it was Ebby who deemed its source information to be "reliable but not guaranteed."

[6] *See also* *Tex. Emp't Comm'n v. Oliver*, 691 S.W.2d 819, 821 (Tex. App.-Houston [1st Dist.] 1985, no writ) ("`Misrepresentation' means `any manifestation by words or other conduct by one person to another that, *under the circumstances,* amounts to an assertion not in accordance with the facts.'" (quoting Black's Law Dictionary 903 (5th ed. 1981) (emphasis added))); *State Nat'l Bank of El Paso v. Farah Mfg. Co.*, 678 S.W.2d 661, 681 (Tex. App.-El Paso 1984, writ dism'd by agr.) ("A representation that a maker knows to be capable of two interpretations, *one of which he knows to be false* and the other true is fraudulent if it is made: (a) with the intention that it be understood in the sense in which it is false, or (b) without any belief or expectation as to how it will be understood, or (c) with reckless indifference as to how it will be understood." (quoting RESTATEMENT (SECOND) OF TORTS § 527 (1977) (emphasis added))).

[7] Section 27.01 was enacted in 1967, after *Blanton* was decided. Act of May 25, 1967, 60th Leg., R.S., ch. 785, § 1, sec. 27.01, 1968 Tex. Gen. Laws 2343, 2603, *amended by* Act of May 19, 1983, 68th Leg., ch. 949, §§ 1, 2, 1983 Tex. Gen. Laws 5208, 5208-09.

[8] Despite Ebby's reliance on DCAD, Dugas notes that Estes did not know whether DCAD records were accurate. Moreover, Cox was not one-hundred percent certain from where DCAD obtained its square footage information.

[9] Bases on Ebby's listing regarding the subject unit, it is possible to calculate the square footage of each room that Ebby measured by multiplying the room's length times its width. The sum total of the square footage of all of the rooms measured is 608 square feet.

[10] The charge defined "goods" as including "real property purchased or leased for use." *See* TEX. BUS. & COM. CODE ANN. § 17.45(1) (providing statutory basis for such definition).

[11] The version of the statute at issue in *Pfeifer* was contained in section 17.46(b)(23). *See* Deceptive Trade Practices Act, 66th Leg., R.S., ch. 603, § 3, 1979 Tex. Gen. Laws 1327, 1329, *amended by* Act of May 23, 2001, 77th Leg., R.S., ch. 962, § 1, 2001 Tex. Gen. Laws 1929, 1931. Effective September 1, 2001, section (b)(23) was moved to section 17.46(b)(24). The language of the renumbered provision is substantially the same as the former provision.

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Class-Action Lawsuit Attacks Zillow's 'Co-Marketing' Program

May 13, 2019

A judge says a class-action lawsuit against Zillow that alleges that its "co-marketing" program between agents and lenders violates federal antikickback laws can move forward. Zillow officials have called the lawsuit "without merit," and company officials say they intend to "vigorously defend" against the accusations about its co-marketing program.

> Lawsuit Accuses Zillow of 'Ruining My Ability to Get a Decent Offer'

Zillow offers a "premier" agents and brokers program, where real estate professionals can receive prominent advertising placements on its listed home sites. In 2013, Zillow added to the program where agents could have large portions of their advertising fees paid for by lenders, who share the advertising costs with them for prominent ad placements. Prospective buyers on Zillow would then see an agent and lender advertised as they browsed for homes. The program allows lenders to share in the access to these buyer leads.

However, the recent lawsuit alleges the co-marketing program violates the Real Estate Settlement Procedures Act. RESPA is a federal law that prohibits the payment of fees for business referrals among real estate, mortgage, and title industry providers that are not for services actually rendered.

In April 2017, the Consumer Financial Protection Bureau announced it was investigating whether Zillow's co-marketing program violated RESPA's rules regarding kickbacks. However, the CFPB dropped its case when a new agency director was named.

But investors who purchased Zillow stock filed a class-action lawsuit alleging securities fraud. A district court judge dismissed portions of that lawsuit. But plaintiffs were told they could file an amended complaint if they could produce evidence that Zillow's co-marketing program violated RESPA.

A federal district court judge ruled on April 19 that the lawsuit can proceed. "The court can draw a reasonable inference that Zillow designed the co-marketing program to allow agents to provide referrals to lenders in violation of RESPA," Judge John C. Coughenour of the United States District Court for the Western District of Washington wrote in his decision.

Source: "Whistleblowers' Claims Revive a Class-Action Suit Against Zillow," The Washington Post (May 11, 2019)

 9 Comments

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Recent Stories in This Section

Renovation Startup Curbio Wins NAR Pitch Battle

Cold Calling in Real Estate Under Fire in New Lawsuit

April 8, 2019

The common industry practice of cold calling prospects to find new business is being challenged in a class-action complaint filed in a U.S. District Court in California.

Jorge Valdes from Tustin, Calif., has filed a complaint against Coldwell Banker Real Estate and NRT asking the court to stop the companies from directing its real estate professionals to call consumers without their consent, in violation of the Telephone Consumer Protection Act. The lawsuit alleges the defendants are making unsolicited, automatically dialed calls to consumers that go against the Federal Trade Commission's National Do Not Call Registry.

Window to the Law: TCPA and Texting

Complaint_040319 .pdf (1.84 MB)

In the complaint, Valdes alleges that the real estate companies provide specific instructions to its real estate professionals to call consumers who have previously listed their properties for sale with other real estate professionals. Valdes also alleges that the companies are instructing real estate professionals to make unsolicited cold calls to obtain new listings and that the companies provide agents with telephone numbers and other analytics to identify leads as well as scripts to guide the conversations. The lawsuit questions the technology services that are helping real estate professionals gain numbers to call.

Valdes says in the complaint that he received unwanted autodialed calls from three different Coldwell Banker and NRT real estate professionals to his cell phone, which is registered on the Do Not Call list. Valdes had a property listed on the MLS in 2018 with a real estate professional, but the listing was removed after his home did not sell. He says his cell phone number was never associated with any of the publicly listed information about the property.

Know the Law

NAR Telemarketing & Cold-Calling Resource (Login required)

Federal Trade Commission: National Do Not Call Registry Rules

Valdes' class-action lawsuit stretches to anyone who has also received unsolicited calls over the past four years from the companies. The complaint is seeking a jury trial and a minimum of $500 in damages and up to $1,500 in damages for each violation.

Coldwell Banker and NRT have released the following joint statement in response: "We received the lawsuit and are evaluating. As consistent with our policy, we will not comment further on pending litigation."

The lawsuit follows on the heels of another complaint recently filed against two South Florida brokerages by consumers who said they received a flood of unwanted automated text services about properties. Those lawsuits are asking the court for class action status, which if granted, could potentially cover anyone in the U.S. who has received an automated text message from the brokerages in the last four years.

Source: REALTOR® Magazine

Marlonia Ivy, Appellant,

v.

Victor Garcia and Wanda Garcia, Appellees.

No. 03-18-00545-CV.

Court of Appeals of Texas, Third District, Austin.

Filed: August 9, 2019.

Tracia Y. Lee, N. West Short, for Wanda Garcia and Victor Garcia, Appellees.

Marlonia Ivy, for Appellant, Pro Se.

Appeal FROM THE COUNTY COURT AT LAW NO. 4 OF WILLIAMSON COUNTY, NO. 17-1299-CC2-4, THE HONORABLE JOHN McMASTER, JUDGE PRESIDING.

Reversed and Remanded.

Before Chief Justice Rose, Justices Kelly and Smith.

MEMORANDUM OPINION

CHARI L. KELLY, Justice.

In the suit underlying this appeal, appellant Marlonia Ivy alleges that appellees Victor Garcia and Wanda Garcia misrepresented and failed to disclose certain information in connection with Ivy's purchase of the Garcias' home. The Garcias filed a motion for summary judgment, arguing that the as-is clause in the parties' purchase contract precluded Ivy's recovery as a matter of law. After the trial court granted the Garcias' motion and signed a final summary judgment dismissing Ivy's claims, Ivy timely filed her notice of appeal in this Court. Because we conclude that a fact issue exists as to whether the as-is clause is enforceable, we reverse the summary judgment and remand the case to the trial court for further proceedings.

BACKGROUND

On July 26, 2015, Ivy entered into a contract to purchase the Garcias' home in Williamson County (the Property), using the standard One to Four Residential Resale Contract promulgated by the Texas Real Estate Commission. In part, the purchase contract stated that the Garcias had provided Ivy with a Seller's Disclosure Notice concerning the home's condition, as required by Section 5.008 of the Texas Property Code, and that Ivy was accepting the Property "As Is," which was defined in the contract as "the present condition of the Property with any and all defects and without warranty except for the warranties of title and the warranties in this contract."

The contract also provided Ivy with an unrestricted right to terminate the contract during a ten-day "option" period, in exchange for her payment of $250. During this option period, Ivy hired Mike Larkin with Barfield Home Inspections to conduct an inspection of the Property. Larkin issued a 23-page report identifying numerous problems with the house (the Barfield Inspection Report). Among other things, that report detailed multiple roof leaks and resulting damage visible in the attic; nonfunctioning lights above the fireplace; gas leaking at the water heater, causing him to "recommend having the water heater unit serviced and further evaluated by a licensed repair person"; a loose and leaking master bathroom toilet along with "deterioration of the plywood decking under the toilet"; and improperly sealed duct lines in the heating ventilation and cooling system (HVAC), causing him to "recommend contacting a licensed HVAC contractor to address these issues and to further evaluate."

Ivy then requested, in writing, that the Garcias repair many of the issues identified in the Barfield Inspection Report, including the issues related to the roof, the HVAC system, and the electrical system. The Garcias refused to make the

requested repairs but instead offered to increase the purchase price of the home by $3,500 and to pay $3,500 towards Ivy's closing costs. According to Wanda Garcia, she and her husband declined to make any of the requested repairs because they "believed that [they] were selling [their] home below its market value" and that their offer, if accepted, would "free[] up some cash that Ms. Ivy would not have to pay at closing that she could use to make [the requested] repairs." Ivy accepted the Garcias' proposal and did not exercise her option to terminate the purchase contract. Instead, the parties executed an amendment to the purchase contract to reflect the agreed-to increase in the price of the Property as well as the Garcias' corresponding obligation to pay part of Ivy's closing costs. On August 24, 2015, Ivy closed on her purchase of the Property at the renegotiated price.

On August 17, 2017, Ivy filed suit against the Garcias asserting various claims related to the condition of the Property, including claims for common law fraud, violations of the Texas Deceptive Trade Practices Act (DTPA), breach of fiduciary duty, negligent misrepresentation, conspiracy, and intentional infliction of emotional distress. Common to all of Ivy's claims is the allegation that the Garcias failed to disclose certain facts or made misleading and false statements about the condition of the Property. The Garcias filed an answer generally denying all of Ivy's allegations and, later, a traditional motion for summary judgment on all of Ivy's claims.

Following a non-evidentiary hearing, the trial court granted the Garcias' motion and signed a final summary judgment dismissing all of Ivy's claims. In one issue on appeal, Ivy contends that the trial court erred in granting summary judgment in favor of the Garcias on her claims for violations of the DTPA, fraud, and misrepresentation.[1]

STANDARD OF REVIEW

We review the trial court's decision to grant summary judgment de novo. *Valence Operating Co. v. Dorsett*, 164 S.W.3d 656, 661 (Tex. 2005). To prevail on a traditional motion for summary judgment, a movant must establish that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law. Tex. R. Civ. P. 166a. In reviewing the trial court's ruling, we take as true all evidence favorable to the nonmovant, indulge every reasonable inference in the nonmovant's favor, and resolve any doubts in the nonmovant's favor. *Provident Life & Accident Ins. v. Knott*, 128 S.W.3d 211, 215 (Tex. 2003). A defendant who moves for traditional summary judgment on the plaintiff's claim must conclusively negate at least one element of the plaintiff's cause of action or conclusively establish each element of an affirmative defense to the claim. *KCM Fin.LLC v. Bradshaw*, 457 S.W.3d 70, 79 (Tex. 2015).

DISCUSSION

In their motion for summary judgment, and now on appeal, the Garcias assert that Ivy's claims for violations of the DTPA, fraud, and misrepresentation are defeated, as a matter of law, by the as-is clause in the parties' purchase contract and by the independent inspection conducted by Larkin at Ivy's request. In support of their argument, the Garcias cite to *Prudential Insurance Company of America v. Jefferson Associates*, 896 S.W.2d 156, 161 (Tex. 1995). In that case, the Texas Supreme Court considered the effect of an as-is clause in the context of a commercial real estate transaction and concluded that the clause precluded the buyer from recovering damages based on the seller's alleged failure to disclose potential asbestos in the building. *Id.* In reaching this conclusion, the Supreme Court recognized that a buyer who agrees to purchase something "as is" agrees to make his own appraisal of the bargain and accept the risk that he may be wrong. *Id.* Moreover, by choosing to "rely entirely upon his own determination of the condition and value of his purchase," the buyer "removes the possibility that the seller's conduct will cause him damage." *Id.* Therefore, as a general rule, an as-is clause in a purchase contract will negate the elements of causation and reliance for any DTPA, fraud, or negligence claims relating to the value or condition of the property. *Id.*

On appeal, Ivy does not dispute that the parties' purchase contract contains an as-is clause and that, ordinarily, this would preclude her from recovering on her DTPA, fraud, and misrepresentation claims. Instead, Ivy maintains that trial court erred in granting summary judgment based on the as-is clause in this case because the Garcias fraudulently induced her into the as-is contract. As Ivy points out, a buyer is not bound to an agreement to purchase something "as is" if the agreement is a product of a fraudulent representation or concealment of information by the seller. *Id.* at 162. "A seller cannot have it both ways: he cannot assure the buyer of the condition of a thing to obtain the buyer's agreement to purchase `as is,' and then disavow the assurance which procured the `as is' agreement." *Id.* Consequently, Ivy is not bound by the as-is clause if the Garcias intended to induce her into the contract by making a fraudulent misrepresentation or by concealing information and

if Ivy relied on the misrepresentation in entering into the as-is contract. *See Van Duren v. Chife,* 569 S.W.3d 176, 188 (Tex. App.-Houston [1st Dist.] 2018, no pet.) (summarizing what buyer must show when asserting that as-is contract was procured by fraudulent inducement); *Williams v. Dardenne,* 345 S.W.3d 118, 125-126 (Tex. App.-Houston [1st Dist.] 2011, pet. denied) (explaining that fraudulent inducement is type of fraud claim and requires that elements of fraud be established "as they relate to an agreement between the parties").

To raise an issue of fact as to the enforceability of the as-is clause in response to the Garcias' motion for summary judgment, Ivy was required to adduce more than a scintilla of evidence to support her claim that she was fraudulently induced to purchase the Property "as is." *See Van Duren,* 569 S.W.3d at 186. In support of her argument that she was fraudulently induced into signing the as-is contract, Ivy contends that the Garcias failed to disclose known defects in the Property and that if they had disclosed these defects, she would not have entered into the as-is purchase contract. Specifically, in response to the Garcias' summary judgment, Ivy asserts that the Garcias (who had lived in the home for more than thirty years) falsely represented on the Seller's Disclosure Notice that (1) they had no knowledge of any "previous fires" when, in fact, a lightning strike in 2007 caused a fire in the laundry room; (2) they had no knowledge of any "defects or malfunctions" in the roof or of any "previous roof repairs," despite the fact that the roof was damaged in a hail storm, repaired in 2009, and continued to suffer from defects and moisture penetration; (3) they had no knowledge of any "defects or malfunctions" in the flooring, despite the presence of an active leak in the master bathroom causing damage to surrounding flooring; (4) they had no knowledge of any "defects or malfunctions" in any lighting fixtures, although the lighting fixtures around the fireplace were found to be inoperable; and (5) they had no knowledge of any encroachment on the Property when, in fact, the neighbor's fence was and currently is encroaching on the Property.

As a preliminary matter, we note that the summary-judgment record reveals that many of the defects alleged by Ivy—namely, water penetration, deterioration, and damage in the roof and attic; water penetration and damage in the master bathroom; and nonfunctioning light fixtures—were specifically identified in the Barfield Inspection Report.[2] Texas courts consistently have concluded that a buyer's independent inspection precludes a showing of causation and reliance if the buyer continued to complete the purchase after the inspection revealed the same information that the seller allegedly failed to disclose. *Williams,* 345 S.W.3d at 125-26 (collecting cases); *see Lesieur v. Fryar,* 325 S.W.3d 242, 250 (Tex. App.-San Antonio 2010, pet. denied) (concluding that causation and reliance were negated by buyer's independent inspection, which contained same information about defect that sellers allegedly failed to disclose); *Dubow v. Dragon,* 746 S.W.2d 857 (Tex. App.-Dallas 1988, no writ) (same); *see also Ritchey v. Pinnell,* 324 S.W.3d 815, 819 (Tex. App.-Texarkana 2010, no pet.) (concluding that buyer's independent inspection failed to negate causation and reliance because there was no evidence that inspection revealed complained-of defects). This is particularly true when, as in this case, the buyer relies on the independent inspection disclosing the information to renegotiate the contract.[3] *Id.* To the extent Ivy suggests that she was fraudulently induced into entering into the as-is contract by the Garcias' failure to disclose defects that were later identified in the Barfield Inspection Report, we conclude that these nondisclosures, as a matter of law, cannot form the basis of a fraudulent-inducement claim or, consequently, create a fact issue as to the enforceability of the as-is clause. *See Lutfak v. Gainsborough,* No. 01-15-01068-CV, 2017 Tex. App. LEXIS 4554, *18-19 (Tex. App.-Houston [1st Dist.] May 18, 2017, no pet.) (mem. op.) (concluding that buyer failed to produce legally sufficient evidence that he was fraudulently induced into signing as-is contract because allegedly concealed defects were revealed in inspection obtained by buyer). Moreover, Ivy's claims for DTPA violations, fraud, and misrepresentation, to the extent they are based on the defects identified by the Barfield Inspection Report, are defeated as a matter of law. *See Lesieur,* 325 S.W.3d at 250 (concluding that summary judgment was proper on buyer's claims because buyer obtained same information about defect from independent inspection); *Dubow,* 746 S.W.2d at 860-61 (concluding that summary judgment was proper on buyers' claims because record established that buyers relied on independent inspection and not on sellers' misrepresentations).

Not all of the defects alleged by Ivy, however, were revealed by the Barfield Inspection Report. *See Ritchey,* 324 S.W.3d at 819-20 (concluding that pre-purchase home inspection did not negate reliance and causation because there was no evidence that inspection revealed whether proper permit was obtained). The Barfield Inspection Report did not determine whether the Property had previously sustained a fire or whether the neighbor's fence is encroaching onto the Property. The issue, then, is whether the as-is clause in the purchase contract defeats these claims as a matter of law or, instead, whether Ivy met her burden to show that a fact issue exists concerning the clause's enforceability. *See Prudential Ins.,* 896 S.W.2d at 161-62. That is, the issue is whether Ivy presented legally sufficient evidence to support her claim that she was fraudulently induced to agree to the as-is contract either by the Garcias' failure to disclose a previous fire or by their failure to disclose an encroachment on the Property.

In response to the Garcia's motion for summary judgment, Ivy attached a copy of a document procured by subpoena from the Jollyville Fire Department, documenting an incident at the Property on March 12, 2007. According to the report, the Jollyville Fire Department was dispatched to the Property in response to what was "determined to be a Building Fire" after the home was "hit by lightning w/nothing showing—investigating (no power to the residence)." The report by the responder states, "Met [with] owner who stated there was a small fire behind the washer and was extinguished . . . overhauled a small area of the wall [with] nothing found, as well both sections of the attic were checked [with] nothing found." In the Seller's Disclosure Notice, the Garcias were required to disclose whether they were aware of any previous fires, and the Garcias responded by marking "No." In her affidavit, Ivy states that if the fire had been disclosed by the Garcias, she would not have entered into an as-is purchase contract. Viewing this evidence in the light most favorable to Ivy, as we must, we conclude that Ivy met her burden to adduce more than a scintilla of evidence to support her claim that she was fraudulently induced to purchase the Property "as is."[4] *See* *Knott,* 128 S.W.3d at 215; *Ritchey v. Pinnell,* 357 S.W.3d 410, 413 (Tex. App.-Texarkana 2012, no pet.) (because evidence suggested that seller was aware that repairs violated building permit and code requirements and that seller failed to disclose same, buyer met burden to create fact issue as to enforceability of as-is contract). Because a genuine issue of material fact exists as to the enforceability of the as-is clause with respect to Ivy's remaining DTPA, fraud, and misrepresentation claims, the trial court erred in granting summary judgment on these claims.

CONCLUSION

We reverse that portion of the trial court's judgment dismissing Ivy's claims for DTPA violations, fraud, and misrepresentation and remand to the trial court for further proceedings consistent with this opinion.

[1] In the trial court, the Garcias moved for, and the court granted, summary judgment on all of Ivy's claims. On appeal, Ivy does not contend that the trial court erred in granting summary judgment as to any claims other than her claims for DTPA violations, fraud, and misrepresentation.

[2] The summary-judgment record includes copies of the Multiple Listing Service (MLS) listing for the Property, the Seller's Disclosure Notice, the parties' purchase contract, the Barfield Inspection Report, Ivy's written request for repairs, the purchase contract amendment, the settlement statement from closing, Ivy's affidavit, Wanda Garcia's affidavit, and the Garcias' responses to written interrogatories. *See* Tex. R. Civ. P. 166a(c) (explaining how affidavits and other evidence are made part of summary-judgment record). In addition, Ivy has attempted to file in this Court what appear to be medical records belonging to Victor Garcia. However, those records were not made a part of the record before the trial court, and the Garcias have filed a motion to strike the records on this ground. Because we agree that the medical records are not properly part of the appellate record, *see* Tex. R. App. P. 34.1 (contents of appellate record), we grant the Garcias' motion to strike.

[3] We recognize that there is a split of authority as to whether the record must show that there was a renegotiation of the purchase contract based on the defects revealed by the buyer's pre-purchase independent inspection. *Compare* *Dubow v. Dragon,* 746 S.W.2d 857 (Tex. App.-Dallas 1988, no writ) (holding that independent inspection negated causation and reliance because buyer relied on information from inspection to renegotiate contract), *and* *Ritchey v. Pinnell,* 324 S.W.3d 815, 819 (Tex. App.-Texarkana 2010, no pet.) (agreeing with approach in *Dubow*), *with* *Lesieur v. Fryar,* 325 S.W.3d 242, 250 (Tex. App.-San Antonio 2010, pet. denied) (concluding that independent inspection that revealed same information negated causation and reliance and rejecting assertion that evidence of renegotiation of contract was required). In this case, even under the more stringent standard adopted by the Dallas Court of Appeals, the elements of causation and reliance are negated. Accordingly, we need not decide this issue in this case. *See* Tex. R. App. P. 47.1.

[4] As previously discussed, Ivy also contends that she was fraudulently induced into the as-is contract by the Garcias' failure to disclose that a neighbor's fence was encroaching on the Property. In response, the Garcias assert that the only evidence offered by Ivy to support this claim (a written letter purportedly drafted by Ivy's neighbor) was struck by the trial court and that Ivy has failed to raise a genuine issue of material fact on this issue. Because we conclude that Ivy presented sufficient evidence that she was fraudulently induced into entering the as-is contract based on the Garcias' failure to disclose a previous fire and reverse on this basis, we need not decide this issue. *See* Tex. R. App. P. 47.1.

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TEXAS REALTORS

SELLER'S DISCLOSURE NOTICE

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Section 5.008, Property Code requires a seller of residential property of not more than one dwelling unit to deliver a Seller's Disclosure Notice to a buyer on or before the effective date of a contract. **This form complies with and contains additional disclosures which exceed the minimum disclosures required by the Code.**

CONCERNING THE PROPERTY AT _____

THIS NOTICE IS A DISCLOSURE OF SELLER'S KNOWLEDGE OF THE CONDITION OF THE PROPERTY AS OF THE DATE SIGNED BY SELLER AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE BUYER MAY WISH TO OBTAIN. IT IS NOT A WARRANTY OF ANY KIND BY SELLER, SELLER'S AGENTS, OR ANY OTHER AGENT.

Seller ❑ is ❑ is not occupying the Property. If unoccupied (by Seller), how long since Seller has occupied the Property? ❑ _____ (approximate date) or ❑ never occupied the Property

Section 1. The Property has the items marked below: (Mark Yes (Y), No (N), or Unknown (U).)

This notice does not establish the items to be conveyed. The contract will determine which items will & will not convey.

Item	Y	N	U
Cable TV Wiring			
Carbon Monoxide Det.			
Ceiling Fans			
Cooktop			
Dishwasher			
Disposal			
Emergency Escape Ladder(s)			
Exhaust Fans			
Fences			
Fire Detection Equip.			
French Drain			
Gas Fixtures			
Natural Gas Lines			

Item	Y	N	U
Liquid Propane Gas:			
-LP Community (Captive)			
-LP on Property			
Hot Tub			
Intercom System			
Microwave			
Outdoor Grill			
Patio/Decking			
Plumbing System			
Pool			
Pool Equipment			
Pool Maint. Accessories			
Pool Heater			

Item	Y	N	U
Pump: ❑ sump ❑ grinder			
Rain Gutters			
Range/Stove			
Roof/Attic Vents			
Sauna			
Smoke Detector			
Smoke Detector – Hearing Impaired			
Spa			
Trash Compactor			
TV Antenna			
Washer/Dryer Hookup			
Window Screens			
Public Sewer System			

Item	Y	N	U	Additional Information
Central A/C				❑ electric ❑ gas number of units: _____
Evaporative Coolers				number of units: _____
Wall/Window AC Units				number of units: _____
Attic Fan(s)				if yes, describe: _____
Central Heat				❑ electric ❑ gas number of units: _____
Other Heat				if yes describe: _____
Oven				number of ovens: _____ ❑ electric ❑ gas ❑ other: _____
Fireplace & Chimney				❑ wood ❑ gas logs ❑ mock ❑ other: _____
Carport				❑ attached ❑ not attached
Garage				❑ attached ❑ not attached
Garage Door Openers				number of units: _____ number of remotes: _____
Satellite Dish & Controls				❑ owned ❑ leased from _____
Security System				❑ owned ❑ leased from _____
Solar Panels				❑ owned ❑ leased from _____
Water Heater				❑ electric ❑ gas ❑ other: _____ number of units: _____
Water Softener				❑ owned ❑ leased from _____
Other Leased Item(s)				if yes, describe: _____

Underground Lawn Sprinkler				❑ automatic ❑ manual areas covered: _____
Septic / On-Site Sewer Facility				if yes, attach Information About On-Site Sewer Facility (TXR-1407)

Water supply provided by: ❑ city ❑ well ❑ MUD ❑ co-op ❑ unknown ❑ other: _____
Was the Property built before 1978? ❑ yes ❑ no ❑ unknown
(If yes, complete, sign, and attach TXR-1906 concerning lead-based paint hazards).
Roof Type: _____ Age: _____(approximate)
Is there an overlay roof covering on the Property (shingles or roof covering placed over existing shingles or roof covering)? ❑ yes ❑ no ❑ unknown

Are you (Seller) aware of any of the items listed in this Section 1 that are not in working condition, that have defects, or are need of repair? ❑ yes ❑ no If yes, describe (attach additional sheets if necessary): _____

Section 2. Are you (Seller) aware of any defects or malfunctions in any of the following?~~:~~ (Mark Yes (Y) if you are aware and No (N) if you are not aware.)

Item	Y	N
Basement		
Ceilings		
Doors		
Driveways		
Electrical Systems		
Exterior Walls		

Item	Y	N
Floors		
Foundation / Slab(s)		
Interior Walls		
Lighting Fixtures		
Plumbing Systems		
Roof		

Item	Y	N
Sidewalks		
Walls / Fences		
Windows		
Other Structural Components		

If the answer to any of the items in Section 2 is yes, explain (attach additional sheets if necessary): _____

Section 3. Are you (Seller) aware of any of the following conditions?~~:~~ (Mark Yes (Y) if you are aware and No (N) if you are not aware.)

Condition	Y	N
Aluminum Wiring		
Asbestos Components		
Diseased Trees: ❑ oak wilt ❑ _____		
Endangered Species/Habitat on Property		
Fault Lines		
Hazardous or Toxic Waste		
Improper Drainage		
Intermittent or Weather Springs		
Landfill		
Lead-Based Paint or Lead-Based Pt. Hazards		
Encroachments onto the Property		
Improvements encroaching on others' property		
~~Located in 100-year Floodplain (If yes, attach TXR-1414)~~		
~~Located in Floodway (If yes, attach TXR-1414)~~		
~~Present Flood Ins. Coverage (If yes, attach TXR-1414)~~		
~~Previous Flooding into the Structures~~		
~~Previous Flooding onto the Property~~		
Located in Historic District		

Condition	Y	N
Previous Foundation Repairs		
Previous Roof Repairs		
Previous Other Structural Repairs		
Radon Gas		
Settling		
Soil Movement		
Subsurface Structure or Pits		
Underground Storage Tanks		
Unplatted Easements		
Unrecorded Easements		
Urea-formaldehyde Insulation		
Water ~~Penetration~~Damage Not Due to a Flood Event		
Wetlands on Property		
Wood Rot		
Active infestation of termites or other wood destroying insects (WDI)		
Previous treatment for termites or WDI		
Previous termite or WDI damage repaired		
Previous Fires		

Historic Property Designation			Termite or WDI damage needing repair		
Previous Use of Premises for Manufacture of Methamphetamine			Single Blockable Main Drain in Pool/Hot Tub/Spa*		

If the answer to any of the items in Section 3 is yes, explain (attach additional sheets if necessary): _____

*A single blockable main drain may cause a suction entrapment hazard for an individual.

Section 4. Are you (Seller) aware of any item, equipment, or system in or on the Property that is in need of repair, which has not been previously disclosed in this notice? ❑ yes ❑ no If yes, explain (attach additional sheets if necessary): _____

Section 5. Are you (Seller) aware of any of the following conditions?* (Mark Yes (Y) if you are aware and check wholly or partly as applicable. Mark No (N) if you are not aware.)

Y	N	
❑	❑	Present flood insurance coverage (if yes, attach TXR 1414).
❑	❑	Previous flooding due to a failure or breach of a reservoir or a controlled or emergency release of water from a reservoir.
❑	❑	Previous flooding due to a natural flood event (if yes, attach TXR 1414).
❑	❑	Previous water penetration into a structure on the Property due to a natural flood event (if yes, attach TXR 1414).
❑	❑	Located ❑ wholly ❑ partly in a 100-year floodplain (Special Flood Hazard Area-Zone A, V, A99, AE, AO, AH, VE, or AR) (if yes, attach TXR 1414).
❑	❑	Located ❑ wholly ❑ partly in a 500-year floodplain (Moderate Flood Hazard Area-Zone X (shaded)).
❑	❑	Located ❑ wholly ❑ partly in a floodway (if yes, attach TXR 1414).
❑	❑	Located ❑ wholly ❑ partly in a flood pool.
❑	❑	Located ❑ wholly ❑ partly in a reservoir.

If the answer to any of the above is yes, explain (attach additional sheets as necessary): _____

*For purposes of this notice:

"100-year floodplain" means any area of land that: (A) is identified on the flood insurance rate map as a special flood hazard area, which is designated as Zone A, V, A99, AE, AO, AH, VE, or AR on the map; (B) has a one percent annual chance of flooding, which is considered to be a high risk of flooding; and (C) may include a regulatory floodway, flood pool, or reservoir.

"500-year floodplain" means any area of land that: (A) is identified on the flood insurance rate map as a moderate flood hazard area, which is designated on the map as Zone X (shaded); and (B) has a two-tenths of one percent annual chance of flooding, which is considered to be a moderate risk of flooding.

"Flood pool" means the area adjacent to a reservoir that lies above the normal maximum operating level of the reservoir and that is subject to controlled inundation under the management of the United States Army Corps of Engineers.

"Flood insurance rate map" means the most recent flood hazard map published by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Section 4001 et seq.).

"Floodway" means an area that is identified on the flood insurance rate map as a regulatory floodway, which includes the channel of a river or other watercourse and the adjacent land areas that must be reserved for the discharge of a base flood, also referred to as a 100-year flood, without cumulatively increasing the water surface elevation more than a designated height.

"Reservoir" means a water impoundment project operated by the United States Army Corps of Engineers that is intended to retain water or delay the runoff of water in a designated surface area of land.

Section 6. Have you (Seller) ever filed a claim for flood damage to the Property with any insurance provider, including the National Flood Insurance Program (NFIP)?* ❑ yes ❑ no If yes, explain (attach additional sheets as necessary): _____

_____

_____

*Homes in high risk flood zones with mortgages from federally regulated or insured lenders are required to have flood insurance. Even when not required, the Federal Emergency Management Agency (FEMA) encourages homeowners in high risk, moderate risk, and low risk flood zones to purchase flood insurance that covers the structure(s) and the personal property within the structure(s).

Section 7. Have you (Seller) ever received assistance from FEMA or the U.S. Small Business Administration (SBA) for flood damage to the Property? ❑ yes ❑ no If yes, explain (attach additional sheets as necessary): _____

_____

_____

Section ~~5~~8. Are you (Seller) aware of any of the following? (Mark Yes (Y) if you are aware. Mark No (N) if you are not aware.)

Y	N	
❑	❑	Room additions, structural modifications, or other alterations or repairs made without necessary permits, with unresolved permits, or not in compliance with building codes in effect at the time.
❑	❑	Homeowners' associations or maintenance fees or assessments. If yes, complete the following: Name of association: _____ Manager's name: _____ Phone: _____ Fees or assessments are: $_____ per _____ and are: ❑ mandatory ❑ voluntary Any unpaid fees or assessment for the Property? ❑ yes ($_____) ❑ no If the Property is in more than one association, provide information about the other associations below or attach information to this notice.
❑	❑	Any common area (facilities such as pools, tennis courts, walkways, or other) co-owned in undivided interest with others. If yes, complete the following: Any optional user fees for common facilities charged? ❑ yes ❑ no If yes, describe: _____ _____
❑	❑	Any notices of violations of deed restrictions or governmental ordinances affecting the condition or use of the Property.
❑	❑	Any lawsuits or other legal proceedings directly or indirectly affecting the Property. (Includes, but is not limited to: divorce, foreclosure, heirship, bankruptcy, and taxes.)
❑	❑	Any death on the Property except for those deaths caused by: natural causes, suicide, or accident unrelated to the condition of the Property.
❑	❑	Any condition on the Property which materially affects the health or safety of an individual.
❑	❑	Any repairs or treatments, other than routine maintenance, made to the Property to remediate environmental hazards such as asbestos, radon, lead-based paint, urea-formaldehyde, or mold. If yes, attach any certificates or other documentation identifying the extent of the remediation (for example, certificate of mold remediation or other remediation).
❑	❑	Any rainwater harvesting system located on the Property that is larger than 500 gallons and that uses a public water supply as an auxiliary water source.

❑ ❑ The Property is located in a propane gas system service area owned by a propane distribution system retailer.

❑ ❑ Any portion of the Property that is located in a groundwater conservation district or a subsidence district.

If the answer to any of the items in Section ~~5~~ 8 is yes, explain (attach additional sheets if necessary): _____

_____

_____

_____

_____

_____

Section ~~6~~9. Seller ❑ has ❑ has not attached a survey of the Property.

Section ~~7~~10. Within the last 4 years, have you (Seller) received any written inspection reports from persons who regularly provide inspections and who are either licensed as inspectors or otherwise permitted by law to perform inspections? ❑ yes ❑ no If yes, attach copies and complete the following:

Inspection Date	Type	Name of Inspector	No. of Pages

Note: A buyer should not rely on the above-cited reports as a reflection of the current condition of the Property. A buyer should obtain inspections from inspectors chosen by the buyer.

Section ~~8~~11. Check any tax exemption(s) which you (Seller) currently claim for the Property:

❑ Homestead ❑ Senior Citizen ❑ Disabled
❑ Wildlife Management ❑ Agricultural ❑ Disabled Veteran
❑ Other: _____ ❑ Unknown

Section ~~9~~12. Have you (Seller) ever filed a claim for damage, other than flood damage, to the Property with any insurance provider? ❑ yes ❑ no

Section ~~10~~13. Have you (Seller) ever received proceeds for a claim for damage to the Property (for example, an insurance claim or a settlement or award in a legal proceeding) and not used the proceeds to make the repairs for which the claim was made? ❑ yes ❑ no If yes, explain: _____

_____

_____

_____

Section ~~11~~14. Does the Property have working smoke detectors installed in accordance with the smoke detector requirements of Chapter 766 of the Health and Safety Code?* ❑ unknown ❑ no ❑ yes. If no or unknown, explain. (Attach additional sheets if necessary): _____

_____

_____

**Chapter 766 of the Health and Safety Code requires one-family or two-family dwellings to have working smoke detectors installed in accordance with the requirements of the building code in effect in the area in which the dwelling is located, including performance, location, and power source requirements. If you do not know the building code requirements in effect in your area, you may check unknown above or contact your local building official for more information.*

A buyer may require a seller to install smoke detectors for the hearing impaired if: (1) the buyer or a member of the buyer's family who will reside in the dwelling is hearing-impaired; (2) the buyer gives the seller written evidence of the hearing impairment from a licensed physician; and (3) within 10 days after the effective date, the buyer makes a written request for the seller to install smoke detectors for the hearing-impaired and specifies the locations for installation. The parties may agree who will bear the cost of installing the smoke detectors and which brand of smoke detectors to install.

Seller acknowledges that the statements in this notice are true to the best of Seller's belief and that no person, including the broker(s), has instructed or influenced Seller to provide inaccurate information or to omit any material information.

Signature of Seller Date	Signature of Seller Date
Printed Name: _____	Printed Name: _____

ADDITIONAL NOTICES TO BUYER:

(1) The Texas Department of Public Safety maintains a database that the public may search, at no cost, to determine if registered sex offenders are located in certain zip code areas. To search the database, visit www.txdps.state.tx.us. For information concerning past criminal activity in certain areas or neighborhoods, contact the local police department.

(2) If the Property is located in a coastal area that is seaward of the Gulf Intracoastal Waterway or within 1,000 feet of the mean high tide bordering the Gulf of Mexico, the Property may be subject to the Open Beaches Act or the Dune Protection Act (Chapter 61 or 63, Natural Resources Code, respectively) and a beachfront construction certificate or dune protection permit may be required for repairs or improvements. Contact the local government with ordinance authority over construction adjacent to public beaches for more information.

(3) If the Property is located in a seacoast territory of this state designated as a catastrophe area by the Commissioner of the Texas Department of Insurance, the Property may be subject to additional requirements to obtain or continue windstorm and hail insurance. A certificate of compliance may be required for repairs or improvements to the Property. For more information, please review *Information Regarding Windstorm and Hail Insurance for Certain Properties* (TXR 2518) and contact the Texas Department of Insurance or the Texas Windstorm Insurance Association.

(4) This Property may be located near a military installation and may be affected by high noise or air installation compatible use zones or other operations. Information relating to high noise and compatible use zones is available in the most recent Air Installation Compatible Use Zone Study or Joint Land Use Study prepared for a military installation and may be accessed on the Internet website of the military installation and of the county and any municipality in which the military installation is located.

(5) If you are basing your offers on square footage, measurements, or boundaries, you should have those items independently measured to verify any reported information.

(6) The following providers currently provide service to the Property:

Electric: _____	phone #: _____
Sewer: _____	phone #: _____
Water: _____	phone #: _____
Cable: _____	phone #: _____
Trash: _____	phone #: _____
Natural Gas: _____	phone #: _____
Phone Company: _____	phone #: _____
Propane: _____	phone #: _____
Internet: _____	phone #: _____

(7) This Seller's Disclosure Notice was completed by Seller as of the date signed. The brokers have relied on this notice as true and correct and have no reason to believe it to be false or inaccurate. YOU ARE ENCOURAGED TO HAVE AN INSPECTOR OF YOUR CHOICE INSPECT THE PROPERTY.

The undersigned Buyer acknowledges receipt of the foregoing notice.

Signature of Buyer Date	Signature of Buyer Date
Printed Name: _____	Printed Name: _____

TEXAS REALTORS

RESIDENTIAL LEASE

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS®, INC. IS NOT AUTHORIZED.
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1. PARTIES: The parties to this lease are:

the owner of the Property, Landlord,: _____
_____; and

Tenant(s): _____
_____.

2. PROPERTY: Landlord leases to Tenant the following real property:

Address: _____
legally described as:_____
_____
in _____ County, Texas, together with the following non-real-property items: _____
_____.
The real property and the non-real-property are collectively called the "Property".

3. TERM:

A. Primary Term: The primary term of this lease begins and ends as follows:

Commencement Date:_____ Expiration Date:_____.

B. Delay of Occupancy: Tenant must occupy the Property within 5 days after the Commencement Date. If Tenant is unable to occupy the Property by the 5th day after the Commencement Date because of construction on the Property or a prior tenant's holding over of the Property, Tenant may terminate this lease by giving written notice to Landlord before the Property becomes available to be occupied by Tenant, and Landlord will refund to Tenant the security deposit and any rent paid. Landlord will abate rent on a daily basis for a delay caused by construction or a prior tenant's holding over. This paragraph does not apply to any delay in occupancy caused by cleaning, repairs, or make-ready items.

4. AUTOMATIC RENEWAL AND NOTICE OF TERMINATION: This lease automatically renews on a month-to-month basis unless Landlord or Tenant provides the other party written notice of termination as provided in Paragraph 4A. Oral notice of termination is not sufficient under any circumstances. Time is of the essence for providing notice of termination (strict compliance with dates by which notice must be provided is required). The date on which rent is due does not apply to the requirement for providing written notice of termination. If a box is not checked under Paragraph 4A, Paragraph 4A(1) will apply. If a box is not checked under Paragraph 4B, Paragraph 4B(1) will apply.

A. This lease automatically renews on a month-to-month basis unless Landlord or Tenant provides the other party written notice of termination not less than: *(Check only one box.)*

❑ (1) 30 days before the Expiration Date.
❑ (2) _____ days before the Expiration Date.

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If Landlord or Tenant fails to provide the other party timely written notice of termination as required by paragraph 4A, the lease automatically renews on a month-to-month basis. The Landlord or Tenant then must provide a subsequent written notice of termination as required by paragraph 4B.

B. If this lease automatically renews on a month-to-month basis, it will continue to renew on a month-to-month basis until either party provides written notice of termination to the other party and the notice of termination will be effective: *(Check only one box.)*

❑ (1) on the last day of the month following the month in which the notice is given. Landlord is not obligated to prorate rent even if Tenant surrenders the Property before the termination date.

❑ (2) on the date designated in the notice but not sooner than 30 days after the notice is given and, if necessary, rent will be prorated on a daily basis.

5. RENT:

A. Monthly Rent: Tenant will pay Landlord monthly rent in the amount of $_____ for each full month during this lease. The first full month's rent is due and payable not later than _____ by *(select one or more)*: ❑ cashier's check ❑ electronic payment ❑ money order ❑ personal check or ❑ other means acceptable to Landlord.
Thereafter, Tenant will pay the monthly rent so that Landlord receives the monthly rent on or before *(check only one box)*:

❑ (1) the first day of each month during this lease.

❑ (2) _____.

Weekends, holidays, and mail delays do not excuse Tenant's obligation to timely pay rent.

B. Prorated Rent: On or before _____ Tenant will pay Landlord $_____ as prorated rent from the Commencement Date through the last day of the month in which this lease begins.

C. Place of Payment: Unless this lease provides otherwise, Tenant will remit all amounts due to Landlord under this lease to the following person or entity at the place stated and make all payments payable to the named person or entity. Landlord may later designate, in writing, another person or place to which Tenant must remit amounts due under this lease.

Name: _____

Address: _____

_____

Notice: Place the Property address and Tenant's name on all payments.

D. Method of Payment:

(1) Tenant must pay all rent timely and without demand, deduction, or offset, except as permitted by law or this lease.

(2) Time is of the essence for the payment of rent (strict compliance with rental due dates is required).

(3) Unless the parties agree otherwise, Tenant may not pay rent in cash and will pay all rent by *(select one or more)*: ❑ cashier's check ❑ electronic payment ❑ money order ❑ personal check or ❑ other means acceptable to Landlord. Landlord ❑ may or ❑ may not charge a reasonable fee to process or accept payment by *(select one or more only if Landlord indicates a reasonable fee may be charged)*: ❑ cashier's check ❑ electronic payment ❑ money order ❑ personal check or ❑ other means acceptable to Landlord.

(4) Landlord ❑ requires ❑ does not require Tenant(s) to pay monthly rents by one payment.

(5) If Tenant fails to timely pay any amounts due under this lease or if any check of Tenant is not honored by the institution on which it was drawn, Landlord may require Tenant to pay such amount and any

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subsequent amounts under this lease in certified funds. This paragraph does not limit Landlord from seeking other remedies under this lease for Tenant's failure to make timely payments with good funds.

E. Rent Increases: There will be no rent increases through the primary term. Landlord may increase the rent that will be paid during any month-to-month renewal period by providing at least 30 days written notice to Tenant.

6. LATE CHARGES:

A. If Landlord does not actually receive a rent payment in the full amount at the designated place of payment by the ____ day of each month at 11:59pm, Tenant will pay Landlord for each late payment:

(1) an initial late charge equal to *(check one box only)*: ❑ (a) $_____; or ❑ (b)_____% of one month's rent; **and**

(2) additional late charges of $_____ per day thereafter until rent and late charges are paid in full. Additional late charges for any one payment may not exceed more than 30 days.

Notice: §92.019, Property Code prohibits assessing a late fee until rent has remained unpaid for at least ~~one~~ two full days after the date on which the rent is due.

B. For the purposes of paying rent and any late charges, the mailbox is not the agent for receipt for Landlord (the postmark date is not the date Landlord receives the payment). The parties agree that the late charge is ~~based on a~~ reasonable ~~estimate of~~ based on uncertain damages to the Landlord ~~that are incapable of precise calculation and result from~~ related to the late payment of rent, including direct or indirect expenses, direct or indirect costs, or overhead associated with the collection of late payment. Landlord's acceptance of a late charge does not waive Landlord's right to exercise remedies under Paragraph 27.

7. RETURNED PAYMENT: Tenant will pay Landlord $_____ for each payment Tenant tenders to Landlord which is returned or not honored by the institution on which it is drawn for any reason, plus any late charges until Landlord receives payment. Tenant must make any returned payment good by paying such amount(s) plus any associated charges in certified funds.

8. APPLICATION OF FUNDS: Regardless of any notation on a payment, Landlord may apply funds received from Tenant first to any non-rent obligations of Tenant, including but not limited to, late charges, returned payment charges, repairs, brokerage fees, periodic utilities, pet charges, and then to rent.

9. PETS:

A. Unless the parties agree otherwise in writing, Tenant may not permit, even temporarily, any pet on the Property (including but not limited to any mammal, reptile, bird, fish, rodent, or insect). An assistance animal is not considered a pet.

B. If Tenant violates this Paragraph 9 or any agreement to keep a pet on the Property, Landlord may take all or any of the following action:

(1) declare Tenant to be in default of this lease and exercise Landlord's remedies under Paragraph 27;

(2) charge Tenant, as additional rent, an initial amount of $___ and $_____ per day thereafter per pet for each day Tenant violates the pet restrictions;

(3) remove or cause to be removed any unauthorized pet and deliver it to appropriate local authorities by providing at least 24-hour written notice to Tenant of Landlord's intention to remove the unauthorized pet; and

(4) charge to Tenant the Landlord's cost to:

(a) remove any unauthorized pet;

(b) exterminate the Property for fleas and other insects;

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(c) clean and deodorize the Property's carpets and drapes; and
(d) repair any damage to the Property caused by the unauthorized pet.

C. When taking any action under Paragraph 9B Landlord will not be liable for any harm, injury, death, or sickness to any pet.

10. SECURITY DEPOSIT:

A. Security Deposit: On or before execution of this lease, Tenant will pay a security deposit to Landlord in the amount of $_____ by *(select one or more)*: ❑ cashier's check ❑ electronic payment ❑ money order ❑ personal check or ❑ other means acceptable to Landlord. "Security deposit" has the meaning assigned to that term in §92.102, Property Code. Any additional deposits Tenant pays to Landlord, other than the security deposit, will become part of the security deposit.

B. Interest: No interest or income will be paid to Tenant on the security deposit. Landlord may place the security deposit in an interest-bearing or income-producing account and any interest or income earned will be paid to Landlord or Landlord's representative.

C. Refund: Tenant must give Landlord at least thirty (30) days written notice of surrender before Landlord is obligated to account for or refund the security deposit. Any refund of the security deposit will be made payable to all Tenants named in this lease.

Notices about Security Deposits:
(1) §92.108, Property Code provides that a tenant may not withhold payment of any portion of the last month's rent on grounds that the security deposit is security for unpaid rent.
(2) Bad faith violations of §92.108 may subject a tenant to liability up to 3 times the rent wrongfully withheld and the landlord's reasonable attorney's fees.
(3) The Property Code does not obligate a landlord to return or account for the security deposit until the tenant surrenders the Property and gives the landlord a written statement of the tenant's forwarding address, after which the landlord has 30 days in which to account.
(4) "Surrender" is defined in Paragraph 16 of this lease.
(5) One may view the Texas Property Code at the Texas Legislature's website which, as of the date shown in the lower left-hand corner of this form, is http://www.statutes.legis.state.tx.us/.

D. Deductions:

(1) Landlord may deduct reasonable charges from the security deposit for:
(a) damages to the Property, excluding normal wear and tear, and all reasonable costs associated to repair the Property;
(b) costs for which Tenant is responsible to clean, deodorize, exterminate, and maintain the Property;
(c) unpaid or accelerated rent;
(d) unpaid late charges;
(e) unpaid utilities and utility expenses Landlord incurs to maintain utilities to the Property as required by this Lease;
(f) unpaid pet charges;
(g) replacing unreturned keys, garage door openers, security devices, or other components;
(h) the removal of unauthorized locks or fixtures installed by Tenant;
(i) Landlord's cost to access the Property if made inaccessible by Tenant;
(j) missing or burned-out light bulbs and fluorescent tubes (at the same location and of the same type and quality that are in the Property on the Commencement Date);

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(k) packing, removing, and storing abandoned property;
(l) removing abandoned or illegally parked vehicles;
(m) costs of reletting (as defined in Paragraph 27), if Tenant is in default;
(n) attorney's fees, costs of court, costs of service, and other reasonable costs incurred in any legal proceeding against Tenant;
(o) mailing costs associated with sending notices to Tenant for any violations of this lease;
(p) any other unpaid charges or fees or other items for which Tenant is responsible under this lease;
(q) cost to restore walls, flooring, landscaping or any alteration to the Property not approved in writing by Landlord;
(r) damages to the Property caused by smoking, including but not limited to stains, burns, odors, and removal of debris; and
(s) costs to rekey certain security devices, as provided in Paragraph 19.

(2) If deductions exceed the security deposit, Tenant will pay to Landlord the excess within 10 days after Landlord makes written demand.

11. UTILITIES:

A. Tenant will pay all connection fees, service fees, usage fees, and all other costs and fees for all utilities to the Property (for example, electricity, gas, water, wastewater, garbage, telephone, alarm monitoring systems, cable, and Internet connections) except the following which Landlord will pay:_____
_____.
Unless otherwise agreed, amounts under this paragraph are payable directly to the service providers.

B. Unless provided by Landlord, Tenant must, at a minimum, keep the following utilities on, if available, at all times this lease is in effect: gas; electricity; water; wastewater; and garbage services.

Notice: Before signing this lease, Tenant should determine if all necessary utilities are available to the Property and are adequate for Tenant's use.

12. USE AND OCCUPANCY:

A. Occupants: Tenant may use the Property as a private residence only. The only persons Tenant may permit to reside on the Property during the term of this lease are (*include names and ages of all occupants*): _____
_____.

B. Phone Numbers and E-mail: Tenant must promptly inform Landlord of any changes in Tenant's phone numbers (home, work, and mobile) and e-mail not later than 5 days after a change.

C. HOA Rules: Tenant must comply with any owners' association rules or restrictive covenants affecting the Property. Tenant will reimburse Landlord for any fines or other charges assessed against Landlord for violations by Tenant of any owners' association rule or restrictive covenant, and any resulting administrative fees assessed by Landlord's agents or any other entity as provided by law.

D. Prohibitions: Unless otherwise authorized by this lease, Tenant may not install or permit any of the following on the Property, even temporarily: a spa, hot tub, above-ground pool, trampoline, or any item which causes a suspension or cancellation of insurance coverage or an increase in insurance premiums. Tenant may not permit any part of the Property to be used for: (1) any activity which is a nuisance,

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offensive, noisy, or dangerous; (2) the repair of any vehicle; (3) any business of any type, including but not limited to child care; (4) any activity which violates any zoning ordinance, owners' association rule, or restrictive covenant; (5) any illegal or unlawful activity; or (6) activity that obstructs, interferes with, or infringes on the rights of other persons near the Property.

E. Guests: Tenant may not permit any guest to stay on the Property longer the amount of time permitted by any owners' association rule or restrictive covenant or _____ days without Landlord's written permission, whichever is less.

F. Common Areas: Landlord is not obligated to pay any non-mandatory or user fees for Tenant's use of any common areas or facilities (for example, pool or tennis courts).

13. PARKING RULES: Tenant may not permit more than _____ vehicles, including but not limited to automobiles, trucks, recreational vehicles, trailers, motorcycles, all-terrain vehicles, jet skis, and boats, on the Property unless authorized by Landlord in writing. Tenant may not park or permit any person to park any vehicles in the yard. Tenant may permit vehicles to be parked only in drives, garages, designated common parking areas, or in the street if not prohibited by law or an owners' association. Tenant may not store or permit any person to store any vehicles on or adjacent to the Property or on the street in front of the Property. In accordance with applicable state and local laws, Landlord may have towed, at Tenant's expense: (a) any inoperative vehicle on or adjacent to the Property; (b) any vehicle parked in violation of this paragraph or any additional parking rules made part of this lease; or (c) any vehicle parked in violation of any law, local ordinance, or owners' association rule. Tenant must promptly inform Landlord of any changes in Tenant's vehicle information (type, year, make, model, and license plate number including state) not later than 5 days after a change.

14. ACCESS BY LANDLORD:

A. Advertising: Landlord may prominently display a "For Sale" or "For Lease" or similarly worded sign on the Property during the term of this lease or any renewal period. Landlord or Landlord's contractor may take interior or exterior photographs or images of the Property and use the photographs or images in any advertisements to lease or sell the Property.

B. Access: Before accessing the Property, Landlord or anyone authorized by Landlord will attempt to first contact Tenant, but may enter the Property at reasonable times without notice to make repairs or to show the Property to prospective tenants or buyers, inspectors, fire marshals, lenders, appraisers, or insurance agents. Additionally, Landlord or anyone authorized by Landlord may peacefully enter the Property at reasonable times without first attempting to contact Tenant and without notice to: (1) survey or review the Property's condition and take photographs to document the condition; (2) make emergency repairs; (3) exercise a contractual or statutory lien; (4) leave written notices; or (5) seize nonexempt property if Tenant is in default.

C. Trip Charges: If Landlord or Landlord's agents have made prior arrangements with Tenant to access the Property and are denied or are not able to access the Property because of Tenant's failure to make the Property accessible (including, but not limited to, any occupant, guest or invitee of Tenant, pet, or security device prohibiting access to any area of the Property), Landlord may charge Tenant a trip charge of $_____.

D. Keybox: **A keybox is a locked container placed on the Property holding a key to the Property. The keybox is opened by a special combination, key, or programmed access device so that persons with the access device may enter the Property, even in Tenant's absence. The keybox is a**

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convenience but involves risk (such as unauthorized entry, theft, property damage, or personal injury). Neither the Association of REALTORS® nor MLS requires the use of a keybox.

(1) Tenant authorizes Landlord, Landlord's property manager, and Landlord's broker to place on the Property a keybox containing a key to the Property:
(a) during the last _____ days of this lease or any renewal or extension; and
(b) at any time Landlord lists the Property for sale with a Texas licensed broker.

(2) Tenant may withdraw Tenant's authorization to place a keybox on the Property by providing written notice to Landlord and paying Landlord a fee of $_____ as consideration for the withdrawal. Landlord will remove the keybox within a reasonable time after receipt of the notice of withdrawal and payment of the required fee. Removal of the keybox does not alleviate Tenant's obligation to make the Property available for showings as indicated in Paragraph 14B.

(3) If Landlord or Landlord's agents are denied or are not able to access the Property after first attempting to contact Tenant, Landlord may charge Tenant a trip charge as provided in Paragraph 14C.

(4) Landlord, the property manager, and Landlord's broker are not responsible to Tenant, Tenant's guests, family, or occupants for any damages, injuries, or losses arising from use of the keybox unless caused by Landlord, the property manager, or Landlord's broker.

15. MOVE-IN CONDITION:

A. Landlord makes no express or implied warranties as to the Property's condition. Tenant has inspected the Property and accepts it **AS-IS** provided that Landlord:_____
_____
_____.

B. Tenant will complete an Inventory and Condition Form, noting any damages to the Property, and deliver it to Landlord within _____ days after the Commencement Date. If Tenant fails to timely deliver the Inventory and Condition Form, the Property will be deemed to be free of damages, unless otherwise expressed in this lease. The Inventory and Condition Form is not a request for repairs. Tenant must direct all requests for repairs in compliance with Paragraph 18.

16. MOVE-OUT:

A. Move-Out Condition: When this lease ends, Tenant will surrender the Property in the same condition as when received, normal wear and tear excepted. Tenant will leave the Property in a clean condition free of all trash, debris, and any personal property. Tenant may not abandon the Property.

B. Definitions:

(1) "*Normal wear and tear*" means deterioration that occurs without negligence, carelessness, accident, or abuse.

(2) "*Surrender*" occurs when all occupants have vacated the Property, in Landlord's reasonable judgment, and one of the following events occurs:
(a) the date Tenant specifies as the move-out or termination date in a written notice to Landlord has passed; or
(b) Tenant returns keys and access devices that Landlord provided to Tenant under this lease.

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(3) "*Abandonment*" occurs when all of the following occur:
(a) all occupants have vacated the Property, in Landlord's reasonable judgment;
(b) Tenant is in breach of this lease by not timely paying rent; and
(c) Landlord has delivered written notice to Tenant, by affixing it to the inside of the main entry door or if the Landlord is prevented from entering the Property by affixing it to the outside of the main entry door, stating that Landlord considers the Property abandoned, and Tenant fails to respond to the affixed notice by the time required in the notice, which will not be less than 2 days from the date the notice is affixed to the main entry door.

C. Personal Property Left After Move-Out:

(1) If Tenant leaves any personal property in the Property after surrendering or abandoning the Property Landlord may:
(a) dispose of such personal property in the trash or a landfill;
(b) give such personal property to a charitable organization; or
(c) store and sell such personal property by following procedures in §54.045(b)-(e), Property Code.

(2) Tenant must reimburse Landlord all Landlord's reasonable costs under Paragraph 16C(1) for packing, removing, storing, and selling the personal property left in the Property after surrender or abandonment.

17. PROPERTY MAINTENANCE:

A. Tenant's General Responsibilities: Tenant, at Tenant's expense, must:
(1) keep the Property clean and sanitary;
(2) promptly dispose of all garbage in appropriate receptacles;
(3) supply and change heating and air conditioning filters at least once a month;
(4) supply and replace all light bulbs, fluorescent tubes, and batteries for smoke alarms, carbon monoxide detectors, garage door openers, ceiling fan remotes, and other devices (of the same type and quality that are in the Property on the Commencement Date);
(5) maintain appropriate levels of necessary chemicals or matter in any water softener;
(6) take action to promptly eliminate any dangerous condition on the Property;
(7) take all necessary precautions to prevent broken water pipes due to freezing or other causes;
(8) replace any lost or misplaced keys;
(9) pay any periodic, preventive, or additional extermination costs desired by Tenant, including treatment for bed bugs, unless otherwise required by law;
(10) remove any standing water;
(11) know the location and operation of the main water cut-off valve and all electric breakers and how to switch the valve or breakers off at appropriate times to mitigate any potential damage;
(12) water the foundation of the Property at reasonable and appropriate times; and
(13) promptly notify Landlord, in writing, of all needed repairs.

B. Yard Maintenance:

(1) *"Yard"* means all lawns, shrubbery, bushes, flowers, gardens, trees, rock or other landscaping, and other foliage on or encroaching on the Property or on any easement appurtenant to the Property, and does not include common areas maintained by an owners' association.

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(2) *"Maintain the yard"* means to perform activities such as, but not limited to: (a) mowing, fertilizing, and trimming the yard; (b) controlling pests and weeds in the yard; and (c) removing debris from the yard.

(3) Unless prohibited by ordinance or other law, Tenant will water the yard at reasonable and appropriate times including but not limited to the following times: _____ _____ _____. Other than watering, the yard will be maintained as follows:

❒ (a) Landlord, at Landlord's expense, will maintain the yard. Tenant will permit Landlord and Landlord's contractors reasonable access to the yard and will remove any pet from the yard at appropriate times.

❒ (b) Tenant, at Tenant's expense, will maintain the yard.

❒ (c) Tenant will maintain in effect a scheduled yard maintenance contract with: ❑ a contractor who regularly provides such service; ❑ _____.

C. Pool/Spa Maintenance: Any pool or spa on the Property will be maintained according to a Pool/Spa Maintenance Addendum.

D. Prohibitions: If Tenant installs any fixtures on the Property, authorized or unauthorized, such as additional smoke alarms, additional carbon monoxide detectors, locks, alarm systems, cables, satellite dishes, or other fixtures, such fixtures will become the property of the Landlord. Except as otherwise permitted by law, this lease, or in writing by Landlord, Tenant may not:
(1) remove any part of the Property or any of Landlord's personal property from the Property;
(2) remove, change, add, or rekey any lock;
(3) make holes in the woodwork, floors, or walls, except that a reasonable number of small nails may be used to hang pictures in sheetrock and grooves in paneling;
(4) permit any water furniture on the Property;
(5) install additional phone or video cables, outlets, antennas, satellite receivers, or alarm systems;
(6) alter, replace or remove flooring material, paint, or wallpaper;
(7) install, change, or remove any: fixture, appliance, or non-real-property item listed in Paragraph 2;
(8) keep or permit any hazardous material on the Property such as flammable or explosive materials;
(9) keep or permit any material or item which causes any liability or fire and extended insurance coverage to be suspended or canceled or any premiums to be increased;
(10) dispose of any environmentally detrimental substance (for example, motor oil or radiator fluid) on the Property;
(11) cause or allow any lien to be filed against any portion of the Property; or
(12) disconnect or intentionally damage any carbon monoxide detector, or otherwise violate any local ordinance requiring a carbon monoxide detector in the Property.

E. Failure to Maintain: If Tenant fails to comply with this Paragraph 17 or any Pool/Spa Maintenance Addendum, Landlord may, in addition to exercising Landlord's remedies under Paragraph 27, perform whatever action Tenant is obligated to perform and Tenant must immediately reimburse Landlord the reasonable expenses that Landlord incurs plus any administrative fees assessed by Landlord's agents or any other entity as provided by law.

F. Smoking: Smoking by Tenant, Tenant's guests, family, or occupants is ❑ permitted ❑ not permitted on the Property (including, but not limited to, the garage or outdoor areas of the Property). If smoking is not permitted and does occur on the Property, Tenant will be in default and:
(1) Landlord may exercise Landlord's remedies under Paragraph 27; and
(2) Landlord may deduct from the security deposit damages to the Property caused by smoking, including but not limited to stains, burns, odors, and removal of debris.

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18. REPAIRS: (Notice: Subchapter B, Chapter 92, Property Code governs repair obligations).

A. Repair Requests: All requests for repairs must be in writing and delivered to Landlord. If Tenant is delinquent in rent at the time a repair notice is given, Landlord is not obligated to make the repair. In the event of an emergency related to the condition of the Property that materially affects the physical health or safety of an ordinary tenant, Tenant may call Landlord or, if applicable, the property manager, at_____. Ordinarily, a repair to the heating and air conditioning system is not an emergency.

B. NOTICE: If Landlord fails to repair a condition that materially affects the physical health or safety of an ordinary tenant as required by this lease or the Property Code, Tenant may be entitled to exercise remedies under §92.056 and §92.0561 of the Property Code. If Tenant follows the procedures under those sections, the following remedies may be available to Tenant: (1) terminate the lease and obtain an appropriate refund under §92.056(f); (2) have the condition repaired or remedied according to §92.0561; (3) deduct from the rent the cost of the repair or remedy according to §92.0561; and (4) obtain judicial remedies according to §92.0563. Do not exercise these remedies without consulting an attorney or carefully reviewing the procedures under the applicable sections. The Property Code presumes that 7 days is a reasonable period of time for the Landlord to make a diligent effort to repair a condition unless there are circumstances which establish that a different period of time is appropriate (such as the severity and nature of the condition and the availability of materials, labor, and utilities). Failure to strictly follow the procedures in the applicable sections may cause Tenant to be in default of the lease.

C. Completion of Repairs:

(1) Tenant may not repair or cause to be repaired any condition, regardless of the cause, without Landlord's permission. All decisions regarding repairs, including the completion of any repair, whether to repair or replace the item, and the selection of contractors, will be at Landlord's sole discretion.

(2) Landlord is not obligated to complete a repair on a day other than a business day unless required to do so by the Property Code.

D. Payment of Repair Costs:

(1) Except as otherwise specified in this lease, Landlord will pay to repair or remedy conditions in the Property in need of repair if Tenant complies with the procedures for requesting repairs as described in this Paragraph 18. This includes, but is not limited to, repairs to the following items not caused by Tenant or Tenant's negligence:
(a) heating and air conditioning systems;
(b) water heaters; or
(c) water penetration from structural defects.

(2) Landlord will NOT pay to repair the following items unless caused by Landlord's negligence:
(a) conditions caused by Tenant, an Occupant, or any guest or invitee of Tenant;
(b) damage to doors, windows, and screens;
(c) damage from windows or doors left open;
(d) damage from wastewater stoppages caused by foreign or improper objects in lines that exclusively serve the Property;

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(e) items that are cosmetic in nature with no impact on the functionality or use of the item; and

(f) the following specific items or appliances: _____

_____

_____.

E. Trip Charges: If a repair person is unable to access the Property after making arrangements with Tenant to complete the repair, Tenant will pay any trip charge the repair person may charge, which amount may be different from the amount stated in Paragraph 14C.

F. Advance Payments and Reimbursements: Landlord may require advance payment of repairs or payments under this Paragraph 18 for which Tenant is responsible. Tenant must promptly reimburse Landlord the amounts under this Paragraph 18 for which Tenant is responsible.

19. SECURITY DEVICES AND EXTERIOR DOOR LOCKS:

A. Subchapter D, Chapter 92, Property Code requires the Property to be equipped with certain types of locks and security devices, including (with some exceptions): (1) window latches on each window; (2) a keyed doorknob lock or keyed deadbolt lock on each exterior door; (3) a sliding door pin lock on each exterior sliding glass door of the dwelling; (4) a sliding door handle latch or a sliding door security bar on each exterior sliding glass door of the dwelling; and (5) a keyless bolting device and a door viewer on each exterior door of the dwelling. Landlord has rekeyed the security devices since the last occupant vacated the Property or will rekey the security devices within 7 days after Tenant moves in. "Security device" has the meaning assigned to that term in §92.151, Property Code.

B. All notices or requests by Tenant for rekeying, changing, installing, repairing, or replacing security devices must be in writing. Installation of additional security devices or additional rekeying or replacement of security devices desired by Tenant may be paid by Tenant in advance in accordance with §92.162(c), Property Code, and may be installed only by contractors authorized by Landlord.

C. If Tenant vacates the Property in breach of this lease, Landlord may deduct from the security deposit reasonable costs incurred by Landlord to rekey security devices as authorized by §92.156(e), Property Code.

20. SMOKE ALARMS: Subchapter F, Chapter 92, Property Code requires the Property to be equipped with smoke alarms in certain locations. Requests for additional installation, inspection, or repair of smoke alarms must be in writing. Disconnecting or intentionally damaging a smoke alarm or removing a battery without immediately replacing it with a working battery may subject Tenant to civil penalties and liability for damages and attorney fees under §92.2611, Property Code.

21. LIABILITY: Unless caused by Landlord, Landlord is not responsible to Tenant, Tenant's guests, family, or occupants for any damages, injuries, or losses to person or property caused by fire, flood, water leaks, ice, snow, hail, winds, explosion, smoke, interruption of utilities, theft, burglary, robbery, assault, vandalism, other persons, condition of the Property, environmental contaminants (for example, carbon monoxide, asbestos, radon, lead-based paint, mold, fungus, etc.), or other occurrences or casualty losses. Unless prohibited by law, Tenant will promptly reimburse Landlord for any damages, injuries, or losses to person or property caused by Tenant, Tenant's guests, any occupants, or any pets or assistance animals, including cost of repairs or service to the Property.

22. HOLDOVER: If Tenant fails to vacate the Property at the time this lease ends Tenant will pay Landlord rent for the holdover period and indemnify Landlord and prospective tenants for damages, including but not limited to lost rent, lodging expenses, costs of eviction, and attorneys' fees. Rent for any holdover

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period will be three (3) times the monthly rent, calculated on a daily basis, and will be immediately due and payable daily without notice or demand.

23. RESIDENTIAL LANDLORD'S LIEN: Landlord will have a lien for unpaid rent against all of Tenant's nonexempt personal property that is in the Property and may seize such nonexempt property if Tenant fails to pay rent. Subchapter C, Chapter 54, Property Code governs the rights and obligations of the parties regarding Landlord's lien. Landlord may collect a charge for packing, removing, or storing property seized in addition to any other amounts Landlord is entitled to receive. Landlord may sell or dispose of any seized property in accordance with the provisions of §54.045, Property Code.

24. SUBORDINATION: This lease and Tenant's leasehold interest are and will be subject, subordinate, and inferior to: (i) any lien or encumbrance now or later placed on the Property by Landlord; (ii) all advances made under any such lien or encumbrance; (iii) the interest payable on any such lien or encumbrance; (iv) any and all renewals and extensions of any such lien or encumbrance; (v) any restrictive covenant; and (vi) the rights of any owners' association affecting the Property.

25. CASUALTY LOSS OR CONDEMNATION: Section 92.054, Property Code governs the rights and obligations of the parties regarding a casualty loss to the Property. Any proceeds, payment for damages, settlements, awards, or other sums paid because of a casualty loss to the Property will be Landlord's sole property. For the purpose of this lease, any condemnation of all or a part of the Property is a casualty loss.

26. SPECIAL PROVISIONS: *(Do not insert a lease-option or lease-purchase clause without the assistance of legal counsel. Special obligations and liabilities under statute apply to such transactions.)*

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27. DEFAULT:

A. If Landlord fails to comply with this lease, Tenant may seek any relief provided by law.

B. If Tenant fails to timely pay all amounts due under this lease or otherwise fails to comply with this lease, Tenant will be in default and:
   (1) Landlord may terminate Tenant's right to occupy the Property by providing Tenant with at least one day written notice to vacate;
   (2) all unpaid rents which are payable during the remainder of this lease or any renewal period will be accelerated without notice or demand;
   (3) Landlord may exercise Landlord's lien under Paragraph 23 and any other rights under this lease or the Property Code; and
   (4) Tenant will be liable for:
      (a) any lost rent;
      (b) Landlord's cost of reletting the Property including but not limited to leasing fees, advertising fees, utility charges, and other fees reasonably necessary to relet the Property;
      (c) repairs to the Property for use beyond normal wear and tear;
      (d) all Landlord's costs associated with eviction of Tenant, including but not limited to attorney's fees, court costs, costs of service, witness fees, and prejudgment interest;
      (e) all Landlord's costs associated with collection of amounts due under this lease, including but not limited to collection fees, late charges, and returned check charges; and

(f) any other recovery to which Landlord may be entitled by law.

C. Notice to vacate under Paragraph 27B(1) may be by any means permitted by §24.005, Property Code.

D. If Tenant vacates the Property in breach of this lease, Landlord may also deduct from the security deposit the reasonable costs to rekey certain security devices, as provided in Paragraph 19.

E. Landlord will attempt to mitigate any damage or loss caused by Tenant's breach by attempting to relet the Property to acceptable tenants and reducing Tenant's liability accordingly.

28. EARLY TERMINATION: This lease begins on the Commencement Date and ends on the Expiration date unless: (i) renewed under Paragraph 4; (ii) extended by written agreement of the parties; or (iii) terminated earlier under Paragraph 27, by agreement of the parties, applicable law, or this Paragraph 28. Unless otherwise provided by law, Tenant is not entitled to early termination due to voluntary or involuntary job or school transfer, changes in marital status, loss of employment, loss of co-tenants, changes in health, purchase of property, or death.

A. Special Statutory Rights Tenants may have special statutory rights to terminate the lease early in certain situations involving family violence, military deployment or transfer, or certain sex offenses or stalking.

(1) Military: If Tenant is or becomes a servicemember or a dependent of a servicemember, Tenant may terminate this lease by delivering to Landlord a written notice of termination and a copy of an appropriate government document providing evidence of: (a) entrance into military service; (b) military orders for a permanent change of station (PCS); or (c) military orders to deploy with a military unit for not less than 90 days. Termination is effective on the 30th day after the first date on which the next rental payment is due after the date on which the notice is delivered. §92.017, Property Code governs the rights and obligations of the parties under this paragraph.

(2) Family Violence: Tenant may terminate this lease if Tenant provides Landlord with a copy of ~~a court order~~documentation described under §92.016, Property Code protecting Tenant or an occupant from family violence committed by a cotenant or occupant of the Property. §92.016, Property Code governs the rights and obligations of the parties under this paragraph. If the family violence is committed by someone other than a cotenant or co-occupant of the Property, Tenant must give written notice of termination 30 days prior to the effective date of the notice.

(3) Sex Offenses or Stalking: Tenant may have special statutory rights to terminate this lease in certain situations involving certain sexual offenses or stalking, if the Tenant provides Landlord with the documentation required by §92.0161, Property Code. For more information about the types of situations covered by this provision, Tenant is advised to review §92.0161, Property Code.

B. Assignment, Subletting and Replacement Tenants:

(1) Tenant may not assign this lease or sublet the Property without Landlord's written consent.

(2) If Tenant requests an early termination of this lease under this Paragraph 28B, Tenant may attempt to find a replacement tenant and may request Landlord to do the same. Landlord may, but is not obligated to, attempt to find a replacement tenant under this paragraph.

(3) Any assignee, subtenant, or replacement tenant must, in Landlord's discretion, be acceptable as a tenant and must sign: (a) a new lease with terms not less favorable to Landlord than this lease or otherwise acceptable to Landlord; (b) a sublease with terms approved by Landlord; or (c) an assignment of this lease in a form approved by Landlord.

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(4) At the time Landlord agrees to permit an assignee, subtenant, or replacement tenant to occupy the Property, Tenant will pay Landlord:
(a) if Tenant procures the assignee, subtenant, or replacement tenant:
❑ (i) $_____.
❑ (ii) _____% of one's month rent that the assignee, subtenant, or replacement tenant is to pay.

(b) if Landlord procures the assignee, subtenant, or replacement tenant:
❑ (i) $_____.
❑ (ii) _____% of one's month rent that the assignee, subtenant, or replacement tenant is to pay.

(5) Unless expressly stated otherwise in an assignment or sublease, Tenant will not be released from Tenant's obligations under this lease because of an assignment or sublease. An assignment of this lease or a sublease of this lease without Landlord's written consent is voidable by Landlord.

29. ATTORNEY'S FEES: Any person who is a prevailing party in any legal proceeding brought under or related to the transaction described in this lease is entitled to recover prejudgment interest, attorney's fees, costs of service, and all other costs of the legal proceeding from the non-prevailing party.

30. REPRESENTATIONS: Tenant's statements in this lease and any application for rental are material representations. Each party to this lease represents that he or she is of legal age to enter into a contract. If Tenant makes a misrepresentation in this lease or in an application for rental, Tenant is in default.

31. ADDENDA: Incorporated into this lease are the following addenda, exhibits and other information. If Landlord's Rules and Regulations are made part of this lease, Tenant agrees to comply with the Rules and Regulations as Landlord may, at Landlord's discretion, amend from time to time.

❑ Addendum Regarding Lead-Based Paint	❑ Agreement Between Brokers
❑ Inventory & Condition Form	❑ Landlord's Rules & Regulations
❑ Landlord's Additional Parking Rules	❑ Owners' Association Rules
❑ Pet Agreement	❑ Pool/Spa Maintenance Addendum
❑ Protecting Your Home from Mold	❑ Residential Lease Application
❑ Residential Lease Guaranty	❑ Bed Bug Addendum
❑ _____	❑ _____
❑ _____	❑ _____

32. NOTICES: All notices under this lease must be in writing and are effective when hand-delivered, sent by mail, or sent by electronic transmission to *(Do not insert an e-mail address or a fax number unless the party consents to receive notices under this lease at the e-mail address or fax number specified.)*:

Tenant at the Property and a copy to:	Landlord c/o:
_____	_____
_____	_____
_____	_____
E-mail:_____	E-mail:_____
Fax: _____	Fax: _____

33. AGREEMENT OF PARTIES:

A. Entire Agreement: There are no oral agreements between Landlord and Tenant. This lease contains the entire agreement between Landlord and Tenant and may not be changed except by written agreement.

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B. Binding Effect: This lease is binding upon and inures to the benefit of the parties to this lease and their respective heirs, executors, administrators, successors, and permitted assigns.

C. Joint and Several: All Tenants are jointly and severally liable for all provisions of this lease. Any act or notice to, refund to, or signature of, any one or more of the Tenants regarding any term of this lease, its extension, its renewal, or its termination is binding on all Tenants executing this lease.

D. Waiver: Landlord's past delay, waiver, or non-enforcement of a rental due date or any other right will not be deemed to be a waiver of any other breach by Tenant or any other right in this lease.

E. Severable Clauses: Should a court find any clause in this lease unenforceable, the remainder of this lease will not be affected and all other provisions in this lease will remain enforceable.

F. Controlling Law: The laws of the State of Texas govern the interpretation, validity, performance, and enforcement of this lease.

G. Copyright: If an active REALTOR® member of Texas REALTORS® does not negotiate this lease as a party or for one of the parties, with or without assistance by an active member of the State Bar of Texas, this lease is voidable at will by Tenant.

34. INFORMATION:

A. Future inquiries about this lease, rental payments, and security deposits should be directed to the person listed for receipt of notices for Landlord under Paragraph 32.

B. It is Tenant's responsibility to determine, before signing this lease, if: (i) all services (e.g., utilities, connections, schools, and transportation) are accessible to or from the Property; (ii) such services are sufficient for Tenant's needs and wishes; and (iii) Tenant is satisfied with the Property's condition.

C. The brokers to this lease have no knowledge of whether Landlord is delinquent in the payment of any lien against the Property.

D. Unpaid rent and any unpaid amount under this lease are reportable to credit reporting agencies.

E. Landlord is not obligated to respond to any requests for Tenant's rental and payment history from a mortgage company or other prospective landlord until Tenant has given notice of termination of this lease and Tenant is not in breach of this lease. (*Notice: Landlord or Landlord's agent may charge a reasonable fee for processing such information.)*

F. If all occupants over 18 years of age die during this lease, Landlord may: (i) permit the person named below to access the Property at reasonable times in Landlord's or Landlord's agent's presence; (ii) permit the named person to remove Tenant's personal property; and (iii) refund the security deposit, less deductions, to the named person. Section 92.014, Property Code governs procedures to follow ~~in the event of a tenant's death~~regarding a deceased tenant's personal property and security deposit.

Name: _____ Phone: _____
Address: _____
E-mail: _____

G. The Texas Department of Public Safety maintains a database that the public may search, at no cost, to determine if registered sex offenders are located in certain areas (see www.txdps.state.tx.us under on-

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line services). For information concerning past criminal activity in certain areas, contact the local police department.

H. Landlord's insurance does not cover Tenant from loss of personal property. Landlord highly recommends that Tenant obtain liability insurance and insurance for casualties such as fire, flood, water damage, and theft.

I. Landlord's broker, _____, ❑ will ❑ will not act as the property manager for landlord. If Property is not managed by above-named broker, Property will be managed by ❑ Landlord or ❑ property manager for Landlord:
Name of property manager: _____ Phone: _____
Address: _____ E-mail: _____

J. This lease should not be used in conjunction with executory contracts of any type, such as contracts for deed, leases with options to purchase, or lease options, without the advice of an attorney.

K. This lease is negotiable between the parties. This lease is binding upon final acceptance. READ IT CAREFULLY. If you do not understand the effect of this lease, consult your attorney BEFORE signing.

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_____ Landlord Date

_____ Landlord Date

Or signed for Landlord under written property management agreement or power of attorney:

By: _____ Date

_____ Broker's Associate's Printed Name

_____ Broker's Printed Name License No.

_____ Firm Name

_____ Tenant Date

_____ Tenant Date

_____ Tenant Date

_____ Tenant Date

For Landlord's Use:

On _____ * (*date*), Landlord provided a copy of the lease, signed by all parties, to _____(Tenant) by ❑mail ❑e-mail ❑fax ❑in person.

Note: Landlord must provide at least one copy of the lease to at least one Tenant **no later than three business days after the date the lease is signed by each party to the lease. Additionally, if more than one tenant is a party to the lease, no later than three business days after the date the Landlord receives a written request for a copy of a lease from a tenant who has not already received one as required above, the Landlord must provide a copy to the requesting tenant. Landlord may provide the copy of the lease in: (1) a paper format; (2) an electronic format if requested by the tenant; or (3) by e-mail if the parties have communicated by e-mail regarding the lease. See § 92.024, Property Code, for more details.*

TEXAS REALTORS

RESIDENTIAL LEASE FOR A MULTI-FAMILY PROPERTY UNIT

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS®, INC. IS NOT AUTHORIZED.
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1. PARTIES: The parties to this lease are:

the owner of the Unit, Landlord,: _____
_____; and

Tenant(s): _____
_____.

2. PROPERTY: Landlord leases to Tenant the following Unit Number _____ located at:

Address: _____
in _____ County, Texas, together with the following non-real-property items: _____
_____.
The Unit and the non-real-property are collectively called the "Unit". "Property" refers to the real property on which the Unit is located including, but not limited to, the building and common areas.

3. TERM:

A. Primary Term: The primary term of this lease begins and ends as follows:

Commencement Date: _____ Expiration Date: _____

B. Delay of Occupancy: Tenant must occupy the Unit within 5 days after the Commencement Date. If Tenant is unable to occupy the Unit by the 5th day after the Commencement Date because of construction in the Unit or a prior tenant's holding over of the Unit, Tenant may terminate this lease by giving written notice to Landlord before the Unit becomes available to be occupied by Tenant, and Landlord will refund to Tenant the security deposit and any rent paid. Landlord will abate rent on a daily basis for a delay caused by construction or a prior tenant's holding over. This paragraph does not apply to any delay in occupancy caused by cleaning, repairs, or make-ready items.

4. AUTOMATIC RENEWAL AND NOTICE OF TERMINATION: This lease automatically renews on a month-to-month basis unless Landlord or Tenant provides the other party written notice of termination as provided in Paragraph 4A. Oral notice of termination is not sufficient under any circumstances. Time is of the essence for providing notice of termination (strict compliance with dates by which notice must be provided is required). The date on which rent is due does not apply to the requirement for providing written notice of termination. If a box is not checked under Paragraph 4A, Paragraph 4A(1) will apply. If a box is not checked under Paragraph 4B, Paragraph 4B(1) will apply.

A. This lease automatically renews on a month-to-month basis unless Landlord or Tenant provides the other party written notice of termination not less than: *(Check only one box.)*

❑ (1) 30 days before the Expiration Date.
❑ (2) _____ days before the Expiration Date.

If Landlord or Tenant fails to provide the other party timely written notice of termination as required by paragraph 4A, the lease automatically renews on a month-to-month basis. The Landlord or Tenant then must provide a subsequent written notice of termination as required by paragraph 4B.

B. If this lease automatically renews on a month-to month basis, it will continue to renew on a month-to-month basis until either party provides written notice of termination to the other party and the notice of termination will be effective: *(Check only one box.)*

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❑ (1) on the last day of the month following the month in which the notice is given. Landlord is not obligated to prorate rent even if Tenant surrenders the Unit before the termination date.

❑ (2) on the date designated in the notice but not sooner than 30 days after the notice is given and, if necessary, rent will be prorated on a daily basis.

5. RENT:

A. Monthly Rent: Tenant will pay Landlord monthly rent in the amount of $_____ for each full month during this lease. The first full month's rent is due and payable not later than _____ by (*select one or more)*: ❑ cashier's check ❑ electronic payment ❑ money order ❑ personal check or ❑ other means acceptable to Landlord.
Thereafter, Tenant will pay the monthly rent so that Landlord receives the monthly rent on or before (*check only one box*):

❑ (1) the first day of each month during this lease.

❑ (2) _____.
Weekends, holidays, and mail delays do not excuse Tenant's obligation to timely pay rent.

B. Prorated Rent: On or before _____ Tenant will pay Landlord $_____ as prorated rent from the Commencement Date through the last day of the month in which this lease begins.

C. Place of Payment: Unless this lease provides otherwise, Tenant will remit all amounts due to Landlord under this lease to the following person or entity at the place stated and make all payments payable to the named person or entity. Landlord may later designate, in writing, another person or place to which Tenant must remit amounts due under this lease.

Name: _____
Address: _____
_____

Notice: Place the address, Unit number and Tenant's name on all payments.

D. Method of Payment:
(1) Tenant must pay all rent timely and without demand, deduction, or offset, except as permitted by law or this lease.
(2) Time is of the essence for the payment of rent (strict compliance with rental due dates is required).
(3) Unless the parties agree otherwise, Tenant may not pay rent in cash and will pay all rent by *(select one or more):*
❑ cashier's check ❑ electronic payment ❑ money order ❑ personal check or ❑ other means acceptable to Landlord. Landlord ❑ may or ❑ may not charge a reasonable fee to process or accept payment by *(select one or more only if Landlord indicates a reasonable fee may be charged)*: ❑ cashier's check ❑ electronic payment ❑ money order ❑ personal check or ❑ other means acceptable to Landlord.
(4) Landlord ❑ requires ❑ does not require Tenant(s) to pay monthly rents by one payment.
(5) If Tenant fails to timely pay any amounts due under this lease or if any check of Tenant is not honored by the institution on which it was drawn, Landlord may require Tenant to pay such amount and any subsequent amounts under this lease in certified funds. This paragraph does not limit Landlord from seeking other remedies under this lease for Tenant's failure to make timely payments with good funds.

E. Rent Increases: There will be no rent increases through the primary term. Landlord may increase the rent that will be paid during any month-to-month renewal period by providing at least 30 days written notice to Tenant.

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6. LATE CHARGES:

A. If Landlord does not actually receive a rent payment in the full amount at the designated place of payment by the _____ day of each month at 11:59p, Tenant will pay Landlord for each late payment:
(1) an initial late charge equal to *(check one box only)*: ❑ (a) $_____; or ❑ (b)_____% of one month's rent; **and**
(2) additional late charges of $_____ per day thereafter until rent and late charges are paid in full. Additional late charges for any one payment may not exceed more than 30 days.
§92.019, Property Code prohibits assessing a late fee until rent has remained unpaid for at least ~~one~~ two full days after the date on which the rent is due.

B. For the purposes of paying rent and any late charges, the mailbox is not the agent for receipt for Landlord (the postmark date is not the date Landlord receives the payment). The parties agree that the late charge is ~~based on a~~ reasonable ~~estimate of~~based on uncertain damages to the Landlord ~~that are incapable of precise calculation and result from~~related to the late payment of rent, including direct or indirect expenses, direct or indirect costs, or overhead associated with the collection of late payment. Landlord's acceptance of a late charge does not waive Landlord's right to exercise remedies under Paragraph 27.

7. RETURNED PAYMENT: Tenant will pay Landlord $_____ for each payment Tenant tenders to Landlord which is returned or not honored by the institution on which it is drawn for any reason, plus any late charges until Landlord receives payment. Tenant must make any returned payment good by paying such amount(s) plus any associated charges in certified funds.

8. APPLICATION OF FUNDS: Regardless of any notation on a check, Landlord may apply funds received from Tenant first to any non-rent obligations of Tenant, including but not limited to, late charges, returned payment charges, repairs, brokerage fees, periodic utilities, pet charges, and then to rent.

9. PETS:

A. Unless the parties agree otherwise in writing, Tenant may not permit, even temporarily, any pet in the Unit (including but not limited to any mammal, reptile, bird, fish, rodent, or insect). An assistance animal is not considered a pet.

B. If Tenant violates this Paragraph 9 or any agreement to keep a pet in the Unit, Landlord may take all or any of the following action:
(1) declare Tenant to be in default of this lease and exercise Landlord's remedies under Paragraph 27;
(2) charge Tenant, as additional rent, an initial amount of $___ and $_____ per day thereafter per pet for each day Tenant violates the pet restrictions;
(3) remove or cause to be removed any unauthorized pet and deliver it to appropriate local authorities by providing at least 24-hour written notice to Tenant of Landlord's intention to remove the unauthorized pet; and
(4) charge to Tenant the Landlord's cost to:
(a) remove any unauthorized pet;
(b) exterminate the Unit for fleas and other insects;
(c) clean and deodorize the Unit's carpets and drapes; and
(d) repair any damage to the Unit caused by the unauthorized pet.

C. When taking any action under Paragraph 9B Landlord will not be liable for any harm, injury, death, or sickness to any pet.

10. SECURITY DEPOSIT:

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A. Security Deposit: On or before execution of this lease, Tenant will pay a security deposit to Landlord in the amount of $_____ by *(select one or more):* ❑ cashier's check ❑ electronic payment ❑ money order ❑ personal check or ❑ other means acceptable to Landlord. "Security deposit" has the meaning assigned to that term in §92.102, Property Code. Any additional deposits Tenant pays to Landlord, other than the security deposit, will become part of the security deposit.

B. Interest: No interest or income will be paid to Tenant on the security deposit. Landlord may place the security deposit in an interest-bearing or income-producing account and any interest or income earned will be paid to Landlord or Landlord's representative.

C. Refund: Tenant must give Landlord at least thirty (30) days written notice of surrender before Landlord is obligated to account for or refund the security deposit. Any refund of the security deposit will be made payable to all Tenants named in this lease.

Notices about Security Deposits:

(1) §92.108, Property Code provides that a tenant may not withhold payment of any portion of the last month's rent on grounds that the security deposit is security for unpaid rent.

(2) Bad faith violations of §92.108 may subject a tenant to liability up to 3 times the rent wrongfully withheld and the landlord's reasonable attorney's fees.

(3) The Property Code does not obligate a landlord to return or account for the security deposit until the tenant surrenders the Unit and gives the landlord a written statement of the tenant's forwarding address, after which the landlord has 30 days in which to account.

(4) "Surrender" is defined in Paragraph 16 of this lease.

(5) One may view the Texas Property Code at the Texas Legislature's website which, as of the date shown in the lower left-hand corner of this form, is http://www.statutes.legis.state.tx.us/.

D. Deductions:

(1) Landlord may deduct reasonable charges from the security deposit for:
- (a) damages to the Unit and Property, excluding normal wear and tear, and all reasonable costs associated to repair the Unit and Property;
- (b) costs for which Tenant is responsible to clean, deodorize, exterminate, and maintain the Unit;
- (c) unpaid or accelerated rent;
- (d) unpaid late charges;
- (e) unpaid utilities and utility expenses Landlord incurs to maintain utilities to the Unit as required by this Lease;
- (f) unpaid pet charges;
- (g) replacing unreturned keys, garage door openers, security devices, or other components;
- (h) the removal of unauthorized locks or fixtures installed by Tenant;
- (i) Landlord's cost to access the Unit if made inaccessible by Tenant;
- (j) missing or burned-out light bulbs and fluorescent tubes (at the same location and of the same type and quality that are in the Unit on the Commencement Date);
- (k) packing, removing, and storing abandoned property;
- (l) removing abandoned or illegally parked vehicles;
- (m) costs of reletting (as defined in Paragraph 27), if Tenant is in default;
- (n) attorney's fees, costs of court, costs of service, and other reasonable costs incurred in any legal proceeding against Tenant;
- (o) mailing costs associated with sending notices to Tenant for any violations of this lease;

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(p) any other unpaid charges or fees or other items for which Tenant is responsible under this lease;
(q) cost to restore walls, flooring, landscaping or any alteration to the Property not approved in writing by Landlord;
(r) damages to the Unit and Property caused by smoking, including but not limited to stains, burns, odors, and removal of debris; and
(s) costs to rekey certain security devices, as provided in Paragraph 19.

(2) If deductions exceed the security deposit, Tenant will pay to Landlord the excess within 10 days after Landlord makes written demand.

11. UTILITIES:

A. Tenant will pay all connection fees, service fees, usage fees, and all other costs and fees for all utilities to the Unit (for example, electricity, gas, water, wastewater, garbage, telephone, alarm monitoring systems, cable, and Internet connections) except the following which Landlord will pay: _____
_____
_____.
Unless otherwise agreed, amounts under this paragraph are payable directly to the service providers.

B. Unless provided by Landlord, Tenant must, at a minimum, keep the following utilities on, if available, at all times this lease is in effect: gas; electricity; water; wastewater; and garbage services.

C. Tenant authorizes all utility service providers to release to Landlord information concerning connections, disconnections, and charges.

Notice: Before signing this lease, Tenant should determine if all necessary utilities are available to the Unit and are adequate for Tenant's use.

12. USE AND OCCUPANCY:

A. Occupants: Tenant may use the Unit as a private residence only. The only persons Tenant may permit to reside in the Unit during the term of this lease are (*include names and ages of all occupants*): _____
_____
_____.

B. Phone Numbers: Tenant must promptly inform Landlord of any changes in Tenant's phone numbers (home, work, and mobile) not later than 5 days after a change.

C. HOA Rules: Tenant must comply with any owners' association rules or restrictive covenants affecting the Property. Tenant will reimburse Landlord for any fines or other charges assessed against Landlord for violations by Tenant of any owners' association rule or restrictive covenant, and any resulting administrative fees assessed by Landlord's agents or any other entity as provided by law.

D. Prohibitions: Unless otherwise authorized by this lease, Tenant may not install or permit any of the following in the Unit, even temporarily: a spa, hot tub, above-ground pool, trampoline, or any item which causes a suspension or cancellation of insurance coverage or an increase in insurance premiums. Tenant may not permit any part of the Unit to be used for: (1) any activity which is a nuisance, offensive, noisy, or dangerous; (2) the repair of any vehicle; (3) any business of any type, including but not limited to child care; (4) any activity which violates any zoning ordinance, owners' association rule, or restrictive covenant; (5) any illegal or unlawful activity; or (6) activity that obstructs, interferes with, or infringes on the rights of other persons near the Unit.

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E. Guests: Tenant may not permit any guest to stay in the Unit longer than the amount of time permitted by any owners' association rule or restrictive covenant or _____ days without Landlord's written permission, whichever is less.

F. Common Areas: Landlord is not obligated to pay any non-mandatory or user fees for Tenant's use of any common areas or facilities (for example, pool or tennis courts). If Tenant uses any of the common areas, Tenant shall exercise reasonable care, not damage the common areas, and keep the common areas clean and sanitary.

G. Property Rules: Landlord may adopt rules to maintain and enhance the safety and appearance of the Property. From time to time Landlord, at its discretion, may amend the rules. Tenant agrees to comply with the rules as they may be amended. Exceptions or waivers must be authorized by Landlord in writing.

13. PARKING RULES:

A. Parking Type:

❑ (1) Common Parking: Tenant may park no more than _____ vehicles (cars, motorcycles, and passenger trucks) on the Property in the common parking areas located on the Property.

❑ (2) Assigned Parking: Tenant's assigned parking areas are identified as follows: _____
_____
_____.
Only one vehicle may be parked in each assigned parking space. Each month, on or before the date rent is due under the Lease, Tenant will pay additional rent of $ _____ for the assigned parking. Tenant may not assign, sublet, or trade any assigned parking space or area.

B. Tenant may not use any parking spaces or areas on the Property for any boat, trailer, recreational vehicle, all terrain vehicle, jet ski, or any other type of personal property.

C. Tenant's guests, patrons or invitees may park only in those area designated by Landlord for Tenant's guests, patrons, or invitees.

D Landlord may, but is not obligated to, institute controlled-access systems to the parking areas, including but not limited to systems such as vehicle identification stickers, license numbers, or controlled-access devices. At the time the lease ends, Tenant must return all access devices to Landlord.

E In accordance with applicable state and local laws, the Landlord may tow, at Tenant's expense: (a) any inoperative vehicle on or adjacent to the Property; (b) any vehicle parked in violation of this paragraph or any additional parking rules made part of this lease; or (c) any vehicle parked in violation of any law, local ordinance, or owners' association rule.

F. Tenant must promptly inform Landlord of any changes in Tenant's vehicle information (type, year, make, model, and license plate number including state) not later than 5 days after a change.

14. ACCESS BY LANDLORD:

A. Advertising: Landlord may prominently display a "For Sale" or "For Lease" or similarly worded sign in the Unit during the term of this lease or any renewal period. Landlord or Landlord's contractor may take interior and exterior photographs or images of the Unit and use the photographs or images in any advertisements to lease or sell the Unit or Property.

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B. Access: Before accessing the Unit, Landlord or anyone authorized by Landlord will attempt to first contact Tenant, but may enter the Unit at reasonable times without notice to make repairs or to show the Unit to prospective tenants or buyers, inspectors, fire marshals, lenders, appraisers, or insurance agents. Additionally, Landlord or anyone authorized by Landlord may peacefully enter the Unit at reasonable times without first attempting to contact Tenant and without notice to: (1) survey or review the Unit's condition and take photographs to document the condition; (2) make emergency repairs; (3) exercise a contractual or statutory lien; (4) leave written notices; or (5) seize nonexempt property if Tenant is in default.

C. Trip Charges: If Landlord or Landlord's agents have made prior arrangements with Tenant to access the Unit and are denied or are not able to access the Unit because of Tenant's failure to make the Unit accessible (including, but not limited to, any occupant, guest or invitee of Tenant, pet, or security device prohibiting access to any area within the Property), Landlord may charge Tenant a trip charge of $_____.

D. Keybox: **A keybox is a locked container placed on the Unit holding a key to the Unit. The keybox is opened by a special combination, key, or programmed access device so that persons with the access device may enter the Unit, even in Tenant's absence. The keybox is a convenience but involves risk (such as unauthorized entry, theft, property damage, or personal injury). Neither the Association of REALTORS® nor MLS requires the use of a keybox.**

(1) Tenant authorizes Landlord, Landlord's property manager, and Landlord's broker to place a keybox near the Unit containing a key to the Unit:
(a) during the last _____ days of this lease or any renewal or extension; and
(b) at any time Landlord lists the Unit for sale with a Texas licensed broker.

(2) Tenant may withdraw Tenant's authorization to place a keybox near the Unit by providing written notice to Landlord and paying Landlord a fee of $_____ as consideration for the withdrawal. Landlord will remove the keybox within a reasonable time after receipt of the notice of withdrawal and payment of the required fee. Removal of the keybox does not alleviate Tenant's obligation to make the Unit available for showings as stated in Paragraph 14B.

(3) If Landlord or Landlord's agents denied or are not able to access the Unit after first attempting to contact Tenant, Landlord may charge Tenant a trip charge as provided in Paragraph 14C.

(4) Landlord, the property manager, and Landlord's broker are not responsible to Tenant, Tenant's guests, family, or occupants for any damages, injuries, or losses arising from use of the keybox unless caused by Landlord, the property manager, or Landlord's broker.

15. MOVE-IN CONDITION:

A. Landlord makes no express or implied warranties as to the Unit's or Property's condition. Tenant has inspected the Unit and Property and accepts the unit **AS-IS** provided that Landlord:_____

_____

_____

B. Tenant will complete an Inventory and Condition Form, noting any damages to the Unit, and deliver it to Landlord within _____ days after the Commencement Date. If Tenant fails to timely deliver the Inventory and Condition Form, the Unit will be deemed to be free of damages, unless otherwise expressed in this lease. The Inventory and Condition Form is not a request for repairs. Tenant must direct all requests for repairs in compliance with Paragraph 18.

16. MOVE-OUT:

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A. Move-Out Condition: When this lease ends, Tenant will surrender the Unit in the same condition as when received, normal wear and tear excepted. Tenant will leave the Unit in a clean condition free of all trash, debris, and any personal property. Tenant may not abandon the Unit.

B. Definitions:

(1) "*Normal wear and tear*" means deterioration that occurs without negligence, carelessness, accident, or abuse.

(2) "*Surrender*" occurs when all occupants have vacated the Unit, in Landlord's reasonable judgment, and one of the following events occurs:
(a) the date Tenant specifies as the move-out or termination date in a written notice to Landlord has passed; or
(b) Tenant returns keys and access devices that Landlord provided to Tenant under this lease.

(3) "*Abandonment*" occurs when all of the following occur:
(a) all occupants have vacated the Unit, in Landlord's reasonable judgment;
(b) Tenant is in breach of this lease by not timely paying rent; and
(c) Landlord has delivered written notice to Tenant, by affixing it to the inside of the main entry door or if the Landlord is prevented from entering the Unit by affixing it to the outside of the main entry door, stating that Landlord considers the Unit abandoned, and Tenant fails to respond to the affixed notice by the time required in the notice, which will not be less than 2 days from the date the notice is affixed to the main entry door.

C. Personal Property Left After Move-Out:
(1) If Tenant leaves any personal property in the Unit of Property after surrendering or abandoning the Unit Landlord may:
(a) dispose of such personal property in the trash or a landfill;
(b) give such personal property to a charitable organization; or
(c) store and sell such personal property by following procedures in §54.045(b)-(e), Property Code.
(2) Tenant must reimburse Landlord all Landlord's reasonable costs under Paragraph 16C(1) for packing, removing, storing, and selling the personal property left in the Unit after surrender or abandonment.

17. UNIT AND PROPERTY MAINTENANCE:

A. Tenant's General Responsibilities: Tenant, at Tenant's expense, must:
(1) keep the Unit clean and sanitary and use the Property only in ways that are sanitary, clean and non-disruptive;
(2) promptly dispose of all garbage in appropriate receptacles;
(3) supply and change heating and air conditioning filters at least once a month;
(4) supply and replace all light bulbs, fluorescent tubes, and batteries for smoke alarms, carbon monoxide detectors, garage door openers, ceiling fan remotes, and other devices (of the same type and quality that are in the Unit on the Commencement Date);
(5) maintain appropriate levels of necessary chemicals or matter in any water softener;
(6) take action to promptly eliminate any dangerous condition in the Unit;
(7) take all necessary precautions to prevent broken water pipes due to freezing or other causes;
(8) replace any lost or misplaced keys;

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(9) pay any periodic, preventive, or additional extermination costs desired by Tenant, including treatment for bed bugs, except as required by law;
(10) remove any standing water;
(11) know the location and operation of the main water cut-off valve and all electric breakers to the Unit and how to switch the valve or breakers off at appropriate times to mitigate any potential damage; and
(12) promptly notify Landlord, in writing, of all needed repairs.

B. Yard Maintenance:

(1) *"Yard"* means all lawns, shrubbery, bushes, flowers, gardens, trees, rock or other landscaping, and other foliage on or encroaching on the Property or on any easement appurtenant to the Property, and does not include common areas maintained by an owners' association.

(2) *"Maintain the yard"* means to perform activities such as, but not limited to: (a) mowing, fertilizing, and trimming the yard; (b) controlling pests and weeds in the yard; and (c) removing debris from the yard.

(3) Unless prohibited by ordinance or other law, ❒ Tenant ❒ Landlord will water the yard at reasonable and appropriate times including but not limited to the following times: _____ _____ _____. Other than watering, the yard will be maintained as follows:

❒ (a) Landlord, at Landlord's expense, will maintain the yard. Tenant will permit Landlord and Landlord's contractors reasonable access to the yard and will remove any pet from the yard at appropriate times.

❒ (b) Tenant, at Tenant's expense, will maintain the yard.

❒ (c) Tenant will maintain in effect a scheduled yard maintenance contract with: ❑ a contractor who regularly provides such service; ❑ _____.

C. Prohibitions: If Tenant installs any fixtures in the Unit, authorized or unauthorized, such as additional smoke alarms, additional carbon monoxide detectors, locks, alarm systems, cables, satellite dishes, or other fixtures, such fixtures will become the property of the Landlord. Except as otherwise permitted by law, this lease, or in writing by Landlord, Tenant may not:
(1) remove any part of the Property or Unit or any of Landlord's personal property from the Unit or Property;
(2) remove, change, add, or rekey any lock;
(3) make holes in the woodwork, floors, or walls, except that a reasonable number of small nails may be used to hang pictures in sheetrock and grooves in paneling;
(4) permit any water furniture in the Unit;
(5) install additional phone or video cables, outlets, antennas, satellite receivers, or alarm systems;
(6) alter, replace or remove flooring material, paint, or wallpaper;
(7) install, change, or remove any: fixture, appliance, or non-real-property item listed in Paragraph 2;
(8) keep or permit any hazardous material on the Property or in the Unit such as flammable or explosive materials;
(9) keep or permit any material or item which causes any liability or fire and extended insurance coverage to be suspended or canceled or any premiums to be increased;
(10) dispose of any environmentally detrimental substance (for example, motor oil or radiator fluid) on the Property or in the Unit;
(11) cause or allow any lien to be filed against any portion of the Property; or

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(12) disconnect or intentionally damage any carbon monoxide detector, or otherwise violate any local ordinance requiring a carbon monoxide detector in the Unit.

D. Failure to Maintain: If Tenant fails to comply with this Paragraph 17 Landlord may, in addition to exercising Landlord's remedies under Paragraph 27, perform whatever action Tenant is obligated to perform and Tenant must immediately reimburse Landlord the reasonable expenses that Landlord incurs plus any administrative fees assessed by Landlord's agents or any other entity as provided by law.

~~D.~~E. Smoking: Smoking by Tenant, Tenant's guests, family, or occupants is ❑ permitted ❑ not permitted in the Unit or Property (including, but not limited to, the garage or outdoor areas of the Property). If smoking is not permitted and does occur in the Unit or Property, Tenant will be in default and:

(1) Landlord may exercise Landlord's remedies under Paragraph 27; and

(2) Landlord may deduct from the security deposit damages to the Unit or Property caused by smoking, including, but not limited to stains, burns, odors, and removal of debris.

18. REPAIRS: (Notice: Subchapter B, Chapter 92, Property Code governs repair obligations).

A. Repair Requests: All requests for repairs must be in writing and delivered to Landlord. If Tenant is delinquent in rent at the time a repair notice is given, Landlord is not obligated to make the repair. In the event of an emergency related to the condition of the Unit that materially affects the physical health or safety of an ordinary tenant, Tenant may call Landlord or, if applicable, the property manager, at _____. Ordinarily a repair to the heating and air conditioning system is not an emergency.

B. NOTICE: If Landlord fails to repair a condition that materially affects the physical health or safety of an ordinary tenant as required by this lease or the Property Code, Tenant may be entitled to exercise remedies under §92.056 and §92.0561 of the Property Code. If Tenant follows the procedures under those sections, the following remedies may be available to Tenant: (1) terminate the lease and obtain an appropriate refund under §92.056(f); (2) have the condition repaired or remedied according to §92.0561; (3) deduct from the rent the cost of the repair or remedy according to §92.0561; and (4) obtain judicial remedies according to §92.0563. Do not exercise these remedies without consulting an attorney or carefully reviewing the procedures under the applicable sections. The Property Code presumes that 7 days is a reasonable period of time for the Landlord to repair a condition unless there are circumstances which establish that a different period of time is appropriate (such as the severity and nature of the condition and the availability of materials, labor, and materials). Failure to strictly follow the procedures in the applicable sections may cause Tenant to be in default of the lease.

C. Completion of Repairs:

(1) Tenant may not repair or cause to be repaired any condition, regardless of the cause, without Landlord's permission. All decisions regarding repairs, including the completion of any repair, whether to repair or replace the item, and the selection of contractors, will be at Landlord's sole discretion.

(2) Landlord is not obligated to complete a repair on a day other than a business day unless required to do so by the Property Code.

D. Payment of Repair Costs:

(1) Except as otherwise specified in this lease, Landlord will pay to repair or remedy conditions in the Unit in need of repair if Tenant complies with the procedures for requesting repairs as

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described in this Paragraph 18. This includes, but is not limited to, repairs to the following items not caused by Tenant or Tenant's negligence:
(a) heating and air conditioning systems;
(b) water heaters; or
(c) water penetration from structural defects.

(2) Landlord will NOT pay to repair the following items unless caused by Landlord's negligence:
(a) conditions caused by Tenant, an Occupant, or any guest or invitee of Tenant;
(b) damage to doors, windows, and screens;
(c) damage from windows or doors left open;
(d) damage from wastewater stoppages caused by foreign or improper objects in lines that exclusively serve the Unit;
(e) items that are cosmetic in nature with no impact on the functionality or use of the item; and
(f) the following specific items or appliances: _____
_____
_____.

E. Trip Charges: If a repair person is unable to access the Unit after making arrangements with Tenant to complete the repair, Tenant will pay any trip charge the repair person may charge, which amount may be different from the amount stated in Paragraph 14C.

F. Advance Payments and Reimbursements: Landlord may require advance payment of repairs or payments under this Paragraph 18 for which Tenant is responsible. Tenant must promptly reimburse Landlord the amounts under this Paragraph 18 for which Tenant is responsible.

19. SECURITY DEVICES AND EXTERIOR DOOR LOCKS:

A. Subchapter D, Chapter 92, Property Code requires the Unit to be equipped with certain types of locks and security devices, including (with some exceptions): (1) window latches on each window; (2) a keyed doorknob lock or keyed deadbolt lock on each exterior door; (3) a sliding door pin lock on each exterior sliding glass door of the dwelling; (4) a sliding door handle latch or a sliding door security bar on each exterior sliding glass door of the dwelling; and (5) a keyless bolting device and a door viewer on each exterior door of the dwelling. Landlord has rekeyed the security devices since the last occupant vacated the Unit or will rekey the security devices within 7 days after Tenant moves in. "Security device" has the meaning assigned to that term in §92.151, Property Code.

B. All notices or requests by Tenant for rekeying, changing, installing, repairing, or replacing security devices must be in writing. Installation of additional security devices or additional rekeying or replacement of security devices desired by Tenant may be paid by Tenant in advance in accordance with §92.162(c), Property Code, and may be installed only by contractors authorized by Landlord.

C. If Tenant vacates the Unit in breach of this lease, Landlord may deduct from the security deposit reasonable costs incurred by Landlord to rekey security devices as authorized by §92.156(e), Property Code.

20. SMOKE ALARMS: Subchapter F, Chapter 92, Property Code requires the Unit to be equipped with smoke alarms in certain locations. Requests for additional installation, inspection, or repair of smoke alarms must be in writing. Disconnecting or intentionally damaging a smoke alarm or removing a battery without immediately replacing it with a working battery may subject Tenant to civil penalties and liability for damages and attorney fees under §92.2611, Property Code.

21. LIABILITY: Unless caused by Landlord, Landlord is not responsible to Tenant, Tenant's guests, family, or occupants for any damages, injuries, or losses to person or property caused by fire, flood, water leaks, ice,

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snow, hail, winds, explosion, smoke, interruption of utilities, theft, burglary, robbery, assault, vandalism, other persons, condition of the Property or Unit, environmental contaminants (for example, carbon monoxide, asbestos, radon, lead-based paint, mold, fungus, etc.), or other occurrences or casualty losses. Unless prohibited by law, Tenant will promptly reimburse Landlord for any damages, injuries, or losses to person or property caused by Tenant, Tenant's guests, any occupants, or any pets or assistance animals, including cost of repairs or service to the Property or Unit.

22. HOLDOVER: If Tenant fails to vacate the Unit at the time this lease ends Tenant will pay Landlord rent for the holdover period and indemnify Landlord and prospective tenants for damages, including but not limited to lost rent, lodging expenses, costs of eviction, and attorneys' fees. Rent for any holdover period will be three (3) times the monthly rent, calculated on a daily basis, and will be immediately due and payable daily without notice or demand.

23. RESIDENTIAL LANDLORD'S LIEN: Landlord will have a lien for unpaid rent against all of Tenant's nonexempt personal property that is in the Unit or on the Property and may seize such nonexempt property if Tenant fails to pay rent. Subchapter C, Chapter 54, Property Code governs the rights and obligations of the parties regarding Landlord's lien. Landlord may collect a charge for packing, removing, or storing property seized in addition to any other amounts Landlord is entitled to receive. Landlord may sell or dispose of any seized property in accordance with the provisions of §54.045, Property Code.

24. SUBORDINATION: This lease and Tenant's leasehold interest are and will be subject, subordinate, and inferior to: (i) any lien or encumbrance now or later placed on the Unit or Property by Landlord; (ii) all advances made under any such lien or encumbrance; (iii) the interest payable on any such lien or encumbrance; (iv) any and all renewals and extensions of any such lien or encumbrance; (v) any restrictive covenant; and (vi) the rights of any owners' association affecting the Unit or Property.

25. CASUALTY LOSS OR CONDEMNATION: Section 92.054, Property Code governs the rights and obligations of the parties regarding a casualty loss to the Unit and Property. Any proceeds, payment for damages, settlements, awards, or other sums paid because of a casualty loss to the Unit or Property will be Landlord's sole property. For the purpose of this lease, any condemnation of all or a part of the Unit is a casualty loss.

26. SPECIAL PROVISIONS: *(Do not insert a lease-option or lease-purchase clause without the assistance of legal counsel. Special obligations and liabilities under statute apply to such transactions.)*

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27. DEFAULT:

A. If Landlord fails to comply with this lease, Tenant may seek any relief provided by law.

B. If Tenant fails to timely pay all amounts due under this lease or otherwise fails to comply with this lease, Tenant will be in default and:

(1) Landlord may terminate Tenant's right to occupy the Unit by providing Tenant with at least one day written notice to vacate;
(2) all unpaid rents which are payable during the remainder of this lease or any renewal period will be accelerated without notice or demand;
(3) Landlord may exercise Landlord's lien under Paragraph 23 and any other rights under this lease or the Property Code; and
(4) Tenant will be liable for:
(a) any lost rent;
(b) Landlord's cost of reletting the Unit including but not limited to leasing fees, advertising fees, utility charges, and other fees reasonably necessary to relet the Unit;
(c) repairs to the Unit for use beyond normal wear and tear;
(d) all Landlord's costs associated with eviction of Tenant, including but not limited to attorney's fees, court costs, costs of service, witness fees, and prejudgment interest;
(e) all Landlord's costs associated with collection of amounts due under this lease, including but not limited to collection fees, late charges, and returned check charges; and
(f) any other recovery to which Landlord may be entitled by law.

C. Notice to vacate under Paragraph 27B(1) may be by any means permitted by §24.005, Property Code.

D. If Tenant vacates the Unit in breach of this lease, Landlord may deduct from the security deposit the reasonable costs to rekey certain security devices, as provided in Paragraph 19.

E. Landlord will attempt to mitigate any damage or loss caused by Tenant's breach by attempting to relet the Unit to acceptable tenants and reducing Tenant's liability accordingly.

28. EARLY TERMINATION: This lease begins on the Commencement Date and ends on the Expiration date unless: (i) renewed under Paragraph 4; (ii) extended by written agreement of the parties; or (iii) terminated earlier under Paragraph 27, by agreement of the parties, applicable law, or this Paragraph 28. Unless otherwise provided by law, Tenant is not entitled to early termination due to voluntary or involuntary job or school transfer, changes in marital status, loss of employment, loss of co-tenants, changes in health, purchase of property, or death.

A. Special Statutory Rights: Tenants may have special statutory rights to terminate the lease early in certain situations involving family violence, military deployment or transfer, or certain sex offenses or stalking.

(1) Military: If Tenant is or becomes a servicemember or a dependent of a servicemember, Tenant may terminate this lease by delivering to Landlord a written notice of termination and a copy of an appropriate government document providing evidence of: (a) entrance into military service; (b) military orders for a permanent change of station (PCS); or (c) military orders to deploy with a military unit for not less than 90 days. Termination is effective on the 30th day after the first date on which the next rental payment is due after the date on which the notice is delivered. Section 92.017, Property Code governs the rights and obligations of the parties under this paragraph.

(2) Family Violence: Tenant may terminate this lease if Tenant provides Landlord with a copy of a court ~~order~~ documentation described under §92.016, Property Code protecting Tenant or an occupant from family violence committed by a cotenant or occupant of the Unit. Section 92.016, Property Code governs the rights and obligations of the parties under this paragraph. If the family violence is committee by someone other than a cotenant or co-occupant of the Property, Tenant must give written notice of termination 30 days prior to the effective date of the notice.

(3) Sex Offenses or Stalking: Tenant may have special statutory rights to terminate this lease in certain situations involving certain sexual offenses or stalking, if the Tenant provides Landlord with

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the documentation required by §92.0161, Property Code. For more information about the types of situations covered by this provision, Tenant is advised to review §92.0161, Property Code.

B. Assignment, Subletting and Replacement Tenants:

(1) Tenant may not assign this lease or sublet the Unit without Landlord's written consent.

(2) If Tenant requests an early termination of this lease under this Paragraph 28B, Tenant may attempt to find a replacement tenant and may request Landlord to do the same. Landlord may, but is not obligated to, attempt to find a replacement tenant under this paragraph.

(3) Any assignee, subtenant, or replacement tenant must, in Landlord's discretion, be acceptable as a tenant and must sign: (a) a new lease with terms not less favorable to Landlord than this lease or otherwise acceptable to Landlord; (b) a sublease with terms approved by Landlord; or (c) an assignment of this lease in a form approved by Landlord.

(4) At the time Landlord agrees to permit an assignee, subtenant, or replacement tenant to occupy the Unit, Tenant will pay Landlord:

(a) if Tenant procures the assignee, subtenant, or replacement tenant:

❑ (i) $_____.

❑ (ii) _____% of one's month rent that the assignee, subtenant, or replacement tenant is to pay.

(b) if Landlord procures the assignee, subtenant, or replacement tenant:

❑ (i) $_____.

❑ (ii) _____% of one's month rent that the assignee, subtenant, or replacement tenant is to pay.

(5) Unless expressly stated otherwise in an assignment or sublease, Tenant will not be released from Tenant's obligations under this lease because of an assignment or sublease. An assignment of this lease or a sublease of this lease without Landlord's written consent is voidable by Landlord.

29. ATTORNEY'S FEES: Any person who is a prevailing party in any legal proceeding brought under or related to the transaction described in this lease is entitled to recover prejudgment interest, attorney's fees, costs of service, and all other costs of the legal proceeding from the non-prevailing party.

30. REPRESENTATIONS: Tenant's statements in this lease and any application for rental are material representations. Each party to this lease represents that he or she is of legal age to enter into a contract. If Tenant makes a misrepresentation in this lease or in an application for rental, Tenant is in default.

31. ADDENDA: Incorporated into this lease are the following addenda, exhibits and other information. If Landlord's Rules and Regulations are made part of this lease, Tenant agrees to comply with the Rules and Regulations as Landlord may, at Landlord's discretion, amend from time to time.

❑ Addendum Regarding Lead-Based Paint
❑ Inventory & Condition Form
❑ Landlord's Additional Parking Rules
❑ Pet Agreement
❑ Protecting Your Home from Mold
❑ Bed Bug Addendum
❑ _____

❑ Residential Lease Guaranty
❑ Landlord's Rules
❑ Owners' Association Rules
❑ Agreement Between Brokers
❑ Residential Lease Application
❑ _____
❑ _____

32. NOTICES: All notices under this lease must be in writing and are effective when hand-delivered, sent by mail, or sent by electronic transmission to *(Do not insert an e-mail address or a fax number unless the party consents to receive notices under this lease at the e-mail address or fax number specified.)*:

Tenant at the Unit and a copy to: _____

Landlord c/o: _____

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E-mail:	E-mail:
Fax:	Fax:

33. AGREEMENT OF PARTIES:

A. Entire Agreement: There are no oral agreements between Landlord and Tenant. This lease contains the entire agreement between Landlord and Tenant and may not be changed except by written agreement.

B. Binding Effect: This lease is binding upon and inures to the benefit of the parties to this lease and their respective heirs, executors, administrators, successors, and permitted assigns.

C. Joint and Several: All Tenants are jointly and severally liable for all provisions of this lease. Any act or notice to, refund to, or signature of, any one or more of the Tenants regarding any term of this lease, its extension, its renewal, or its termination is binding on all Tenants executing this lease.

D. Waiver: Landlord's past delay, waiver, or non-enforcement of a rental due date or any other right will not be deemed to be a waiver of any other breach by Tenant or any other right in this lease.

E. Severable Clauses: Should a court find any clause in this lease unenforceable, the remainder of this lease will not be affected and all other provisions in this lease will remain enforceable.

F. Controlling Law: The laws of the State of Texas govern the interpretation, validity, performance, and enforcement of this lease.

G. Copyright: If an active REALTOR® member of Texas REALTORS® does not negotiate this lease as a party or for one of the parties, with or without the assistance by an active member of the State Bar of Texas, this lease is voidable at will by Tenant.

34. INFORMATION:

A. Future inquires about this lease, rental payments, and security deposits should be directed to the person listed for receipt of notices for Landlord under Paragraph 32.

B. It is Tenant's responsibility to determine, before signing this lease, if: (i) all services (e.g., utilities, connections, schools, and transportation) are accessible to or from the Unit; (ii) such services are sufficient for Tenant's needs and wishes; and (iii) Tenant is satisfied with the Unit's and Property's condition.

C. The brokers to this lease have no knowledge of whether Landlord is delinquent in the payment of any lien against the Unit or Property.

D. Unpaid rent and any unpaid amount under this lease are reportable to credit reporting agencies.

E. Landlord is not obligated to respond to any request for Tenant's rental and payment history from a mortgage company or other prospective landlord until Tenant has given notice of termination of this lease and Tenant is not in breach of this lease. (*Notice: Landlord or Landlord's agent may charge a reasonable fee for processing such information.*) Tenant authorizes Landlord to disclose personal information about Tenant and Tenant's rental history for law enforcement and governmental purposes.

F. If all occupants over 18 years of age die during this lease, Landlord may: (i) permit the person named below to access the Unit at reasonable times in Landlord's or Landlord's agent's presence; (ii) permit the named person to remove Tenant's personal property; and (iii) refund the security deposit, less

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deductions, to the named person. Section 92.014, Property Code governs procedures to follow ~~in the event of a tenant's death~~regarding a deceased tenant's personal property and security deposit.

Name: _____ Phone: _____
Address: _____
E-mail: _____

G. The Texas Department of Public Safety maintains a database that the public may search, at no cost, to determine if registered sex offenders are located in certain areas (see www.txdps.state.tx.us under online services). For information concerning past criminal activity in certain areas, contact the local police department.

H. Landlord's insurance does not cover Tenant from loss of personal property. Landlord highly recommends that Tenant obtain liability insurance and insurance for casualties such as fire, flood, water damage, and theft.

I. Landlord's broker, _____, ❑ will ❑ will not act as the property manager for landlord. If property is not managed by above-named broker, Property will be managed by ❑ Landlord or ❑ property manager for Landlord:
Name of property manager: _____ Phone: _____
Address: _____ E-mail: _____

J. This lease is negotiable between the parties. This lease is binding upon final acceptance. READ IT CAREFULLY. If you do not understand the effect of this lease, consult your attorney BEFORE signing.

_____	_____
Landlord Date	Tenant Date
_____	_____
Landlord Date	Tenant Date
Or signed for Landlord under written property management agreement or power of attorney:	_____
	Tenant Date
By: _____	_____
Date	Tenant Date

_____
Broker's Associate's Printed Name

_____
Broker's Printed Name License No.

For Landlord's Use:

On _____ * (*date*), Landlord provided a copy of the lease, signed by all parties, to at least one Tenant by ❑mail ❑e-mail ❑fax ❑in person.

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Note: Landlord must provide at least one copy of the lease to at least one Tenant **no later than three business days after the date the lease is signed by each party to the lease. Additionally, if more than one tenant is a party to the lease, no later than three business days after the date the Landlord receives a written request for a copy of a lease from a tenant who has not already received one as required above, the Landlord must provide a copy to the requesting tenant. Landlord may provide the copy of the lease in: (1) a paper format; (2) an electronic format if requested by the tenant; or (3) by e-mail if the parties have communicated by e-mail regarding the lease. See § 92.024, Property Code, for more details.*

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Agenda Item 38:

Discussion and possible action to propose amendments to 22 TAC, Chapter 537, regarding Standard Contract forms as follows:

a. §537.20, Standard Contract form TREC No. 9-13 (Unimproved Property Contract);
b. §537.28, Standard Contract form TREC No. 20-14 (One to Four Family Residential Contract (Resale));
c. §537.30, Standard Contract form TREC No. 23-15 (New Home Contract (Incomplete Construction));
d. §537.31, Standard Contract form TREC No. 24-15 (New Home Contract (Completed Construction));
e. §537.32, Standard Contract form TREC No. 25-12 (Farm and Ranch Contract);
f. §537.37, Standard Contract form TREC No. 30-13 (Residential Condominium Contract (Resale));
g. §537.43, Standard Contract form TREC No. 36-8 (Addendum for Property Subject to Mandatory Membership in a Property Owners Association);
h. §537.47, Standard Contract form TREC No. 40-8 (Third Party Financing Addendum); and
i. §537.55, Standard Contract form TREC No. 48-0 (Addendum for Authorizing Hydrostatic Testing)

Summary:

The Broker Lawyer Committee recommended revisions to the contract forms adopted by reference under the proposed amendments to Chapter 537 to address issues that have arisen since the last contract revisions. The changes listed below apply to all contract forms unless specified otherwise. Paragraph numbers referenced are from the *One to Four Family Residential Contract (Resale)*.

Paragraph 2 is amended to remove quotes and add a parenthetical around the word "Property."

The language of Paragraph 4 was moved to the end of Paragraph 8, which is retitled "License Holders."

Language was added to Paragraph 4 to address leases to which the Seller is a party, and requires the Seller to acknowledge that Buyer has received a copy of all Leases or will



receive a copy within 3 days after the Effective Date. The Buyer may terminate the contract after receipt of the Leases within a period of days set in the contract. Paragraph 4 also prohibits the Seller from executing any new lease or amending any Lease without Buyer's written consent after the effective date of the contract.

Paragraph 10.B is amended to remove redundancies found in Paragraph 4 by striking all language except "After the Effective Date, Seller may not convey any interest in the Property without Buyer's written consent."

Language was deleted from the Broker Information page of all forms except the Farm and Ranch Contract form: "Listing Broker has agreed to pay Other Broker ___ of the total sales price when the Listing Broker's fee is received. Escrow agent is authorized and directed to pay Other Broker from Listing Broker's fee at closing."

Language was added to the Incomplete Construction Contract to mirror the language in the Complete Construction Contract Paragraph 7.I. regarding Residential Service Contracts. The language was added to the Incomplete Construction Contract as Paragraph 7.J.

In the Residential Condominium Contract, all references to a survey were removed from Paragraph 6.

The Addendum for Property Subject to Mandatory Membership in a Property Owners Association adopted by reference in §537.43 is amended to add deposits and reserves to the list of payments the Buyer will make in association with the transfer of the property.

The Third Party Financing Addendum adopted by reference in §537.47 is amended to clarify that the three-day notice requirement in 2.B does not apply to Paragraph 4 and the "time is of the essence" language was moved to the body of Paragraph 2 for clarity.

The Addendum for Authorizing Hydrostatic Testing adopted by reference in §537.55 is amended to include a reference to the scope of hydrostatic testing in the top sentence.

Staff Recommendation:

Authorize staff, on behalf of the Commission, to submit the proposed amendments to 22 TAC §537.20, Standard Contract form TREC No. 9-13 (Unimproved Property Contract); §537.28, Standard Contract form TREC No. 20-14 (One to Four Family Residential Contract (Resale)); §537.30, Standard Contract form TREC No. 23-15 (New Home Contract



(Incomplete Construction)); §537.31, Standard Contract form TREC No. 24-15 (New Home Contract (Completed Construction)); §537.32, Standard Contract form TREC No. 25-12 (Farm and Ranch Contract); §537.37, Standard Contract form TREC No. 30-13 (Residential Condominium Contract (Resale)); §537.43, Standard Contract form TREC No. 36-8 (Addendum for Property Subject to Mandatory Membership in a Property Owners Association); §537.47, Standard Contract form TREC No. 40-8 (Third Party Financing Addendum); and §537.55, Standard Contract form TREC No. 48-0 (Addendum for Authorizing Hydrostatic Testing), along with the forms adopted reference, as presented, along with any technical or non-substantive changes required for proposal, to the *Texas Register*, for publication and public comment.

Motion:

MOVE, that the Commission approve staff's recommendation.

MOVE, that the Commission approve staff's recommendation with the following changes: _____.

MOVE, that the Commission not approve staff's recommendation.

TEXAS REAL ESTATE COMMISSION

AGENDA ITEM 38
PROPOSED RULE ACTION FROM THE AUGUST 12, 2019, MEETING OF THE COMMISSION
CHAPTER 537 PROFESSIONAL AGREEMENTS AND STANDARD CONTRACTS
§537.20, Standard Contract Form TREC No. 9-14[~~9-13~~];
§537.28, Standard Contract Form TREC No. 20-15[~~20-14~~];
§537.30, Standard Contract Form TREC No. 23-16[~~23-15~~];
§537.31, Standard Contract Form TREC No. 24-16[~~24-15~~];
§537.32, Standard Contract Form TREC No. 25-13[~~25-12~~];
§537.37, Standard Contract Form TREC No. 30-14[~~30-13~~];
§535.43, Standard Contract Form TREC No. 36-9[~~36-8~~];
§537.47, Standard Contract Form TREC No. 40-9[~~40-8~~]; and
§535.55, Standard Contract Form TREC No. 48-1[~~48-0~~]

§537.20. Standard Contract Form TREC No. 9-14[~~9-13~~]. The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 9-14[~~9-13~~] approved by the Commission in 2019[~~2018~~] for use in the sale of unimproved property where intended use is for one to four family residences.

§537.28. Standard Contract Form TREC No. 20-15[~~20-14~~]. The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 20-15[~~20-14~~] approved by the Commission in 2019[~~2018~~] for use in the resale of residential real estate.

§537.30. Standard Contract Form TREC No. 23-16[~~23-15~~]. The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 23-16[~~23-15~~] approved by the Commission in 2019 [~~2018~~] for use in the sale of a new home where construction is incomplete.

§537.31. Standard Contract Form TREC No. 24-15[~~24-14~~]. The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 24-16[~~24-15~~] approved by the Commission in 2019 [~~2018~~] for use in the sale of a new home where construction is completed.

§537.32. Standard Contract Form TREC No. 25-13[~~25-12~~]. The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 25-13[~~25-12~~] approved by the Commission in 2019[~~2018~~] for use in the sale of a farm or ranch.

§537.37. Standard Contract Form TREC No. 30-14[~~30-13~~]. The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 30-14[~~30-13~~] approved by the Commission in 2019[~~2018~~] for use in the resale of a residential condominium unit.

§537.43. Standard Contract Form TREC No. 36-9[~~36-8~~]. The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 36-9[~~36-8~~] approved by the Commission in 2019[~~2014~~] for use as an addendum to be added to promulgated forms in the sale of property subject to mandatory membership in an owners' association.

§537.47. Standard Contract Form TREC No. 40-9[~~40-8~~]. The Texas Real Estate Commission (Commission) adopts by reference standard contract form, TREC No. 40-9[~~40-8~~] approved by the Commission in 2019[~~2018~~] for use as an addendum to be added to promulgated forms of contracts when there is a condition for third party financing.

§537.55. Standard Contract Form TREC No. 48-1[~~48-0~~]. The Texas Real Estate Commission (Commission) adopts by reference standard contract form TREC No. 48-1[~~48-0~~] approved by the Commission in 2019[~~2018~~] for use as an addendum to be added to promulgated forms if the parties agree to hydrostatic testing.

PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC) 019 [2-12-18]

UNIMPROVED PROPERTY CONTRACT

NOTICE: Not For Use For Condominium Transactions

EQUAL HOUSING OPPORTUNITY

1. PARTIES: The parties to this contract are _____(Seller) and _____(Buyer). Seller agrees to sell and convey to Buyer and Buyer agrees to buy from Seller the Property defined below.

2. PROPERTY: Lot _____, Block _____, _____Addition, City of _____, County of_____, Texas, known as_____ (address/zip code), or as described on attached exhibit together with all rights, privileges and appurtenances pertaining thereto, including but not limited to: water rights, claims, permits, strips and gores, easements, and cooperative or association memberships ([~~the~~] Property). RESERVATIONS: Any reservation for oil, gas, or other minerals, water, timber, or other interests is made in accordance with an attached addendum.

3. SALES PRICE:

A. Cash portion of Sales Price payable by Buyer at closing .....$_____

B. Sum of all financing described in the attached: ❑ Third Party Financing Addendum, ❑ Loan Assumption Addendum, ❑ Seller Financing Addendum .....$_____

C. Sales Price (Sum of A and B) .....$_____

4. LEASES:

A. The Property is subject to the following types of leases to which the Seller is a party, including any addendum, amendment, or move-in condition form (Leases):

❑ Residential Leases

❑ Oil and Gas or Mineral Leases

❑ Leases of Fixtures (for example, solar panels, propane tanks, water softener)

❑ Other: _____

B. Delivery of Leases (check one box only):

❑ (1) Buyer has received a copy of all Leases.

❑ (2) Buyer has not received a copy of all Leases. Seller shall provide a copy of the Leases within 3 days after the Effective Date. Buyer may terminate the contract within ____days after the date the Buyer receives the Leases and the earnest money shall be refunded to Buyer.

C. After the Effective Date, Seller may not execute any new lease or amend any Lease without Buyer's written consent.

[~~**LICENSE HOLDER DISCLOSURE:** Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as trustee or of which the license holder or the license holder's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable:_____ _____.~~]

5. EARNEST MONEY: Within 3 days after the Effective Date, Buyer must deliver $_____ as earnest money to _____, as escrow agent, at _____(address). Buyer shall deliver additional earnest money of $_____ to escrow agent within _____ days after the Effective Date of this contract. If Buyer fails to deliver the earnest money within the time required, Seller may terminate this contract or exercise Seller's remedies under Paragraph 15, or both, by providing notice to Buyer before Buyer delivers the earnest money. If the last day to deliver the earnest money falls on a Saturday, Sunday, or legal holiday, the time to deliver the earnest money is extended until the end of the next day that is not a Saturday, Sunday, or legal holiday. **Time is of the essence for this paragraph.**

6. TITLE POLICY AND SURVEY:

A. TITLE POLICY: Seller shall furnish to Buyer at ❑Seller's ❑Buyer's expense an owner's policy of title insurance (Title Policy) issued by_____ (Title Company) in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances) and the following exceptions:
(1) Restrictive covenants common to the platted subdivision in which the Property is located.
(2) The standard printed exception for standby fees, taxes and assessments.
(3) Liens created as part of the financing described in Paragraph 3.

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(4) Utility easements created by the dedication deed or plat of the subdivision in which the Property is located.
(5) Reservations or exceptions otherwise permitted by this contract or as may be approved by Buyer in writing.
(6) The standard printed exception as to marital rights.
(7) The standard printed exception as to waters, tidelands, beaches, streams, and related matters.
(8) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements:
❑(i) will not be amended or deleted from the title policy; or
❑(ii) will be amended to read, "shortages in area" at the expense of ❑Buyer ❑Seller.
(9) The exception or exclusion regarding minerals approved by the Texas Department of Insurance.

B. COMMITMENT: Within 20 days after the Title Company receives a copy of this contract, Seller shall furnish to Buyer a commitment for title insurance (Commitment) and, at Buyer's expense, legible copies of restrictive covenants and documents evidencing exceptions in the Commitment (Exception Documents) other than the standard printed exceptions. Seller authorizes the Title Company to deliver the Commitment and Exception Documents to Buyer at Buyer's address shown in Paragraph 21. If the Commitment and Exception Documents are not delivered to Buyer within the specified time, the time for delivery will be automatically extended up to 15 days or 3 days before the Closing Date, whichever is earlier. If the Commitment and Exception Documents are not delivered within the time required, Buyer may terminate this contract and the earnest money will be refunded to Buyer.

C. SURVEY: The survey must be made by a registered professional land surveyor acceptable to the Title Company and Buyer's lender(s). (Check one box only)
❑ (1) Within _____ days after the Effective Date of this contract, Seller shall furnish to Buyer and Title Company Seller's existing survey of the Property and a Residential Real Property Affidavit promulgated by the Texas Department of Insurance (T-47 Affidavit). **If Seller fails to furnish the existing survey or affidavit within the time prescribed, Buyer shall obtain a new survey at Seller's expense no later than 3 days prior to Closing Date.** If the existing survey or affidavit is not acceptable to Title Company or Buyer's lender(s), Buyer shall obtain a new survey at ❑ Seller's ❑Buyer's expense no later than 3 days prior to Closing Date.
❑ (2) Within _____ days after the Effective Date of this contract, Buyer shall obtain a new survey at Buyer's expense. Buyer is deemed to receive the survey on the date of actual receipt or the date specified in this paragraph, whichever is earlier.
❑ (3) Within _____ days after the Effective Date of this contract, Seller, at Seller's expense shall furnish a new survey to Buyer.

D. OBJECTIONS: Buyer may object in writing to (i) defects, exceptions, or encumbrances to title: disclosed on the survey other than items 6A(1) through (7) above; or disclosed in the Commitment other than items 6A(1) through (9) above; (ii) any portion of the Property lying in a special flood hazard area (Zone V or A) as shown on the current Federal Emergency Management Agency map; or (iii) any exceptions which prohibit the following use or activity: _____.
Buyer must object the earlier of (i) the Closing Date or (ii) _____ days after Buyer receives the Commitment, Exception Documents, and the survey. Buyer's failure to object within the time allowed will constitute a waiver of Buyer's right to object; except that the requirements in Schedule C of the Commitment are not waived. Provided Seller is not obligated to incur any expense, Seller shall cure any timely objections of Buyer or any third party lender within 15 days after Seller receives the objections (Cure Period) and the Closing Date will be extended as necessary. If objections are not cured within the Cure Period, Buyer may, by delivering notice to Seller within 5 days after the end of the Cure Period: (i) terminate this contract and the earnest money will be refunded to Buyer; or (ii) waive the objections. If Buyer does not terminate within the time required, Buyer shall be deemed to have waived the objections. If the Commitment or Survey is revised or any new Exception Document(s) is delivered, Buyer may object to any new matter revealed in the revised Commitment or Survey or new Exception Document(s) within the same time stated in this paragraph to make objections beginning when the revised Commitment, Survey, or Exception Document(s) is delivered to Buyer.

E. TITLE NOTICES:
(1) ABSTRACT OR TITLE POLICY: Broker advises Buyer to have an abstract of title covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a Title Policy. If a Title Policy is furnished, the Commitment should be promptly reviewed by an attorney of Buyer's choice due to the time limitations on Buyer's right to object.
(2) MEMBERSHIP IN PROPERTY OWNERS ASSOCIATION(S): The Property ❑is ❑is not subject to mandatory membership in a property owners association(s). If the Property is subject to mandatory membership in a property owners association(s), Seller notifies Buyer under §5.012, Texas Property Code, that, as a purchaser of property in the residential community identified in Paragraph 2 in which the Property is located, you are obligated to be a member of the property owners association(s). Restrictive covenants governing the use and occupancy of the Property and all dedicatory instruments governing the establishment, maintenance, and operation of this residential community have been or will be recorded in

the Real Property Records of the county in which the Property is located. Copies of the restrictive covenants and dedicatory instruments may be obtained from the county clerk. **You are obligated to pay assessments to the property owners association(s). The amount of the assessments is subject to change. Your failure to pay the assessments could result in enforcement of the association's lien on and the foreclosure of the Property.**

Section 207.003, Property Code, entitles an owner to receive copies of any document that governs the establishment, maintenance, or operation of a subdivision, including, but not limited to, restrictions, bylaws, rules and regulations, and a resale certificate from a property owners' association. A resale certificate contains information including, but not limited to, statements specifying the amount and frequency of regular assessments and the style and cause number of lawsuits to which the property owners' association is a party, other than lawsuits relating to unpaid ad valorem taxes of an individual member of the association. These documents must be made available to you by the property owners' association or the association's agent on your request.

If Buyer is concerned about these matters, the TREC promulgated Addendum for Property Subject to Mandatory Membership in a Property Owners Association should be used.

(3) STATUTORY TAX DISTRICTS: If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fee of the district prior to final execution of this contract.

(4) TIDE WATERS: If the Property abuts the tidally influenced waters of the state, §33.135, Texas Natural Resources Code, requires a notice regarding coastal area property to be included in the contract. An addendum containing the notice promulgated by TREC or required by the parties must be used.

(5) ANNEXATION: If the Property is located outside the limits of a municipality, Seller notifies Buyer under §5.011, Texas Property Code, that the Property may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Property is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Property for further information.

(6) PROPERTY LOCATED IN A CERTIFICATED SERVICE AREA OF A UTILITY SERVICE PROVIDER: Notice required by §13.257, Water Code: The real property, described in Paragraph 2, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned Buyer hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in Paragraph 2 or at closing of purchase of the real property.

(7) PUBLIC IMPROVEMENT DISTRICTS: If the Property is in a public improvement district, §5.014, Property Code, requires Seller to notify Buyer as follows: As a purchaser of this parcel of real property you are obligated to pay an assessment to a municipality or county for an improvement project undertaken by a public improvement district under Chapter 372, Local Government Code. The assessment may be due annually or in periodic installments. More information concerning the amount of the assessment and the due dates of that assessment may be obtained from the municipality or county levying the assessment. The amount of the assessments is subject to change. Your failure to pay the assessments could result in a lien on and the foreclosure of your property.

(8) TEXAS AGRICULTURAL DEVELOPMENT DISTRICT: The Property ❑ is ❑ is not located in a Texas Agricultural Development District. For additional information, contact the Texas Department of Agriculture.

(9) TRANSFER FEES: If the Property is subject to a private transfer fee obligation, §5.205, Property Code requires Seller to notify Buyer as follows: The private transfer fee obligation may be governed by Chapter 5, Subchapter G of the Texas Property Code.

(10) PROPANE GAS SYSTEM SERVICE AREA: If the Property is located in a propane gas system service area owned by a distribution system retailer, Seller must give Buyer written notice as required by §141.010, Texas Utilities Code. An addendum containing the notice approved by TREC or required by the parties should be used.

(11) NOTICE OF WATER LEVEL FLUCTUATIONS: If the Property adjoins an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, Seller hereby notifies Buyer: "The water level of the impoundment of water

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adjoining the Property fluctuates for various reasons, including as a result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions."

7. PROPERTY CONDITION:

A. ACCESS, INSPECTIONS AND UTILITIES: Seller shall permit Buyer and Buyer's agents access to the Property at reasonable times. Buyer may have the Property inspected by inspectors selected by Buyer and licensed by TREC or otherwise permitted by law to make inspections. Seller at Seller's expense shall immediately cause existing utilities to be turned on and shall keep the utilities on during the time this contract is in effect.
NOTICE: Buyer should determine the availability of utilities to the Property suitable to satisfy Buyer's needs.

B. ACCEPTANCE OF PROPERTY CONDITION: "As Is" means the present condition of the Property with any and all defects and without warranty except for the warranties of title and the warranties in this contract. Buyer's agreement to accept the Property As Is under Paragraph 7B (1) or (2) does not preclude Buyer from inspecting the Property under Paragraph 7A, from negotiating repairs or treatments in a subsequent amendment, or from terminating this contract during the Option Period, if any.
(Check one box only)

❑ (1) Buyer accepts the Property As Is.

❑ (2) Buyer accepts the Property As Is provided Seller, at Seller's expense, shall complete the following specific repairs and treatments: _____
_____.
(Do not insert general phrases, such as "subject to inspections" that do not identify specific repairs and treatments.)

C. COMPLETION OF REPAIRS: Unless otherwise agreed in writing: (i) Seller shall complete all agreed repairs and treatments prior to the Closing Date; and (ii) all required permits must be obtained, and repairs and treatments must be performed by persons who are licensed to provide such repairs or treatments or, if no license is required by law, are commercially engaged in the trade of providing such repairs or treatments. At Buyer's election, any transferable warranties received by Seller with respect to the repairs and treatments will be transferred to Buyer at Buyer's expense. If Seller fails to complete any agreed repairs and treatments prior to the Closing Date, Buyer may exercise remedies under Paragraph 15 or extend the Closing Date up to 5 days, if necessary, for Seller to complete repairs and treatments.

D. ENVIRONMENTAL MATTERS: Buyer is advised that the presence of wetlands, toxic substances, including asbestos and wastes or other environmental hazards, or the presence of a threatened or endangered species or its habitat may affect Buyer's intended use of the Property. If Buyer is concerned about these matters, an addendum promulgated by TREC or required by the parties should be used.

E. SELLER'S DISCLOSURES: Except as otherwise disclosed in this contract, Seller has no knowledge of the following:
(1) any flooding of the Property which has had a material adverse effect on the use of the Property;
(2) any pending or threatened litigation, condemnation, or special assessment affecting the Property;
(3) any environmental hazards that materially and adversely affect the Property;
(4) any dumpsite, landfill, or underground tanks or containers now or previously located on the Property;
(5) any wetlands, as defined by federal or state law or regulation, affecting the Property; or
(6) any threatened or endangered species or their habitat affecting the Property.

8. LICENSE HOLDERS: [~~BROKERS' FEES:~~]

A. All obligations of the parties for payment of brokers' fees are contained in separate written agreements.

B. Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as a trustee or of which the license holder or the license holder's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable:
_____
_____.

9. CLOSING:

A. The closing of the sale will be on or before _____, 20_____, or within 7 days after objections made under Paragraph 6D have been cured or waived, whichever date is later (Closing Date). If either party fails to close the sale by the Closing Date, the non-defaulting party may exercise the remedies contained in Paragraph 15.

B. At closing:
(1) Seller shall execute and deliver a general warranty deed conveying title to the Property to Buyer and showing no additional exceptions to those permitted in Paragraph 6 and furnish tax statements or certificates showing no delinquent taxes on the Property.

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(2) Buyer shall pay the Sales Price in good funds acceptable to the escrow agent.
(3) Seller and Buyer shall execute and deliver any notices, statements, certificates, affidavits, releases, loan documents and other documents reasonably required for the closing of the sale and the issuance of the Title Policy.
(4) There will be no liens, assessments, or security interests against the Property which will not be satisfied out of the sales proceeds unless securing the payment of any loans assumed by Buyer and assumed loans will not be in default.

10. POSSESSION:

A. Buyer's Possession: Seller shall deliver to Buyer possession of the Property in its present or required condition upon closing and funding.

B. [~~Leases:~~]

[~~(1)~~] After the Effective Date, Seller may not [~~execute any lease (including but not limited to mineral leases) or~~] convey any interest in the Property without Buyer's written consent.

[~~(2) If the Property is subject to any lease to which Seller is a party, Seller shall deliver to Buyer copies of the lease(s) and any move-in condition form signed by the tenant within 7 days after the Effective Date of the contract.~~]

11. SPECIAL PROVISIONS: (Insert only factual statements and business details applicable to the sale. TREC rules prohibit license holders from adding factual statements or business details for which a contract addendum or other form has been promulgated by TREC for mandatory use.)

12. SETTLEMENT AND OTHER EXPENSES:

A. The following expenses must be paid at or prior to closing:

(1)Expenses payable by Seller (Seller's Expenses):

(a) Releases of existing liens, including prepayment penalties and recording fees; release of Seller's loan liability; tax statements or certificates; preparation of deed; one-half of escrow fee; and other expenses payable by Seller under this contract.

(b) Seller shall also pay an amount not to exceed $ _____ to be applied in the following order: Buyer's Expenses which Buyer is prohibited from paying by FHA, VA, Texas Veterans Land Board or other governmental loan programs, and then to other Buyer's Expenses as allowed by the lender.

(2) Expenses payable by Buyer (Buyer's Expenses): Appraisal fees; loan application fees; origination charges; credit reports; preparation of loan documents; interest on the notes from date of disbursement to one month prior to dates of first monthly payments; recording fees; copies of easements and restrictions; loan title policy with endorsements required by lender; loan-related inspection fees; photos; amortization schedules; one-half of escrow fee; all prepaid items, including required premiums for flood and hazard insurance, reserve deposits for insurance, ad valorem taxes and special governmental assessments; final compliance inspection; courier fee; repair inspection; underwriting fee; wire transfer fee; expenses incident to any loan; Private Mortgage Insurance Premium (PMI), VA Loan Funding Fee, or FHA Mortgage Insurance Premium (MIP) as required by the lender; and other expenses payable by Buyer under this contract.

B. If any expense exceeds an amount expressly stated in this contract for such expense to be paid by a party, that party may terminate this contract unless the other party agrees to pay such excess. Buyer may not pay charges and fees expressly prohibited by FHA, VA, Texas Veterans Land Board or other governmental loan program regulations.

13. PRORATIONS AND ROLLBACK TAXES:

A. PRORATIONS: Taxes for the current year, interest, maintenance fees, assessments, dues and rents will be prorated through the Closing Date. The tax proration may be calculated taking into consideration any change in exemptions that will affect the current year's taxes. If taxes for the current year vary from the amount prorated at closing, the parties shall adjust the prorations when tax statements for the current year are available. If taxes are not paid at or prior to closing, Buyer shall pay taxes for the current year.

B. ROLLBACK TAXES: If this sale or Buyer's use of the Property after closing results in the assessment of additional taxes, penalties or interest (Assessments) for periods prior to closing, the Assessments will be the obligation of Buyer. If Assessments are imposed because of Seller's use or change in use of the Property prior to closing, the Assessments will be the obligation of Seller. Obligations imposed by this paragraph will survive closing.

14. CASUALTY LOSS: If any part of the Property is damaged or destroyed by fire or other casualty after the Effective Date of this contract, Seller shall restore the Property to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller fails to do so due to factors beyond Seller's control, Buyer may (a) terminate this contract and the earnest money will be refunded to Buyer (b) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (c) accept the Property in its damaged condition with an assignment of insurance proceeds, if permitted by Seller's insurance carrier, and receive credit from Seller at closing in the amount of the deductible under the insurance policy. Seller's obligations under this paragraph are independent of any other obligations of Seller under this contract.

15. DEFAULT: If Buyer fails to comply with this contract, Buyer will be in default, and Seller may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money as liquidated damages, thereby

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releasing both parties from this contract. If Seller fails to comply with this contract, Seller will be in default and Buyer may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money, thereby releasing both parties from this contract.

16. MEDIATION: It is the policy of the State of Texas to encourage resolution of disputes through alternative dispute resolution procedures such as mediation. Any dispute between Seller and Buyer related to this contract which is not resolved through informal discussion will be submitted to a mutually acceptable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

17. ATTORNEY'S FEES: A Buyer, Seller, Listing Broker, Other Broker, or escrow agent who prevails in any legal proceeding related to this contract is entitled to recover reasonable attorney's fees and all costs of such proceeding.

18. ESCROW:

A. ESCROW: The escrow agent is not (i) a party to this contract and does not have liability for the performance or nonperformance of any party to this contract, (ii) liable for interest on the earnest money and (iii) liable for the loss of any earnest money caused by the failure of any financial institution in which the earnest money has been deposited unless the financial institution is acting as escrow agent.

B. EXPENSES: At closing, the earnest money must be applied first to any cash down payment, then to Buyer's Expenses and any excess refunded to Buyer. If no closing occurs, escrow agent may: (i) require a written release of liability of the escrow agent from all parties, (ii) require payment of unpaid expenses incurred on behalf of a party, and (iii) only deduct from the earnest money the amount of unpaid expenses incurred on behalf of the party receiving the earnest money.

C. DEMAND: Upon termination of this contract, either party or the escrow agent may send a release of earnest money to each party and the parties shall execute counterparts of the release and deliver same to the escrow agent. If either party fails to execute the release, either party may make a written demand to the escrow agent for the earnest money. If only one party makes written demand for the earnest money, escrow agent shall promptly provide a copy of the demand to the other party. If escrow agent does not receive written objection to the demand from the other party within 15 days, escrow agent may disburse the earnest money to the party making demand reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and escrow agent may pay the same to the creditors. If escrow agent complies with the provisions of this paragraph, each party hereby releases escrow agent from all adverse claims related to the disbursal of the earnest money.

D. DAMAGES: Any party who wrongfully fails or refuses to sign a release acceptable to the escrow agent within 7 days of receipt of the request will be liable to the other party for (i) damages; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.

E. NOTICES: Escrow agent's notices will be effective when sent in compliance with Paragraph 21.

Notice of objection to the demand will be deemed effective upon receipt by escrow agent.

19. REPRESENTATIONS: All covenants, representations and warranties in this contract survive closing. If any representation of Seller in this contract is untrue on the Closing Date, Seller will be in default. Unless expressly prohibited by written agreement, Seller may continue to show the Property and receive, negotiate and accept back up offers.

20. FEDERAL TAX REQUIREMENTS: If Seller is a "foreign person," as defined by Internal Revenue Code and its regulations, or if Seller fails to deliver an affidavit or a certificate of non-foreign status to Buyer that Seller is not a "foreign person," then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax forms. Internal Revenue Service regulations require filing written reports if currency in excess of specified amounts is received in the transaction.

21. NOTICES: All notices from one party to the other must be in writing and are effective when mailed to, hand-delivered at, or transmitted by fax or electronic transmission as follows:

To Buyer at:		**To Seller at:**	
Phone:	( )	Phone:	( )
Fax:	( )	Fax:	( )
E-mail:		E-mail:	

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22. AGREEMENT OF PARTIES: This contract contains the entire agreement of the parties and cannot be changed except by their written agreement. Addenda which are a part of this contract are (check all applicable boxes):

- ❑ Third Party Financing Addendum
- ❑ Seller Financing Addendum
- ❑ Addendum for Property Subject to Mandatory Membership in a Property Owners Association
- ❑ Buyer's Temporary Residential Lease
- ❑ Seller's Temporary Residential Lease
- ❑ Addendum for Reservation of Oil, Gas and Other Minerals
- ❑ Addendum for "Back-Up" Contract
- ❑ Addendum Concerning Right to Terminate Due to Lender's Appraisal
- ❑ Addendum for Coastal Area Property
- ❑ Environmental Assessment, Threatened or Endangered Species and Wetlands Addendum
- ❑ Addendum for Property Located Seaward of the Gulf Intracoastal Waterway
- ❑ Addendum for Sale of Other Property by Buyer
- ❑ Addendum for Property in a Propane Gas System Service Area
- ❑ Other (list): _____

23. TERMINATION OPTION: For nominal consideration, the receipt of which is hereby acknowledged by Seller, and Buyer's agreement to pay Seller $_____ (Option Fee) within 3 days after the Effective Date of this contract, Seller grants Buyer the unrestricted right to terminate this contract by giving notice of termination to Seller within _____ days after the Effective Date of this contract (Option Period). Notices under this paragraph must be given by 5:00 p.m. (local time where the Property is located) by the date specified. If no dollar amount is stated as the Option Fee or if Buyer fails to pay the Option Fee to Seller within the time prescribed, this paragraph will not be a part of this contract and Buyer shall not have the unrestricted right to terminate this contract. If Buyer gives notice of termination within the time prescribed, the Option Fee will not be refunded; however, any earnest money will be refunded to Buyer. The Option Fee ❑will ❑will not be credited to the Sales Price at closing. **Time is of the essence for this paragraph and strict compliance with the time for performance is required.**

24. CONSULT AN ATTORNEY BEFORE SIGNING: TREC rules prohibit real estate license holders from giving legal advice. READ THIS CONTRACT CAREFULLY.

Buyer's Attorney is:		Seller's Attorney is:	
Phone:	( )	Phone:	( )
Fax:	( )	Fax:	( )
E-mail:		E-mail:	

EXECUTED the _____day of _____, 20_____ (Effective Date).
(BROKER: FILL IN THE DATE OF FINAL ACCEPTANCE.)

Buyer	Seller
Buyer	Seller

The form of this contract has been approved by the Texas Real Estate Commission. TREC forms are intended for use only by trained real estate license holders. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, (512) 936-3000 (http://www.trec.texas.gov) TREC NO. 9-14 [9-13]. This form replaces TREC NO. 9-13 [9-12].

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BROKER INFORMATION
(Print name(s) only. Do not sign)

Other Broker Firm License No.

represents ❑Buyer only as Buyer's agent
❑Seller as Listing Broker's subagent

Associate's Name License No.

Associate's Email Address Phone

Licensed Supervisor of Associate License No.

Other Broker's Address Phone

City State Zip

Listing Broker Firm License No.

represents ❑Seller and Buyer as an intermediary
❑Seller only as Seller's agent

Listing Associate's Name License No.

Listing Associate's Email Address Phone

Licensed Supervisor of Listing Associate License No.

Listing Broker's Office Address Phone

City State Zip

Selling Associate's Name License No.

Selling Associate's Email Address Phone

Licensed Supervisor of Selling Associate License No.

Selling Associate's Office Address

City State Zip

[~~Listing Broker has agreed to pay Other Broker _____ of the total sales price when the Listing Broker's fee is received. Escrow agent is authorized and directed to pay Other Broker from Listing Broker's fee at closing.~~]

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OPTION FEE RECEIPT

Receipt of $_____ (Option Fee) in the form of _____
is acknowledged.

Seller or Listing Broker _____ Date

EARNEST MONEY RECEIPT

Receipt of $_____ Earnest Money in the form of _____
is acknowledged.

Escrow Agent _____ Received by _____ Email Address _____ Date/Time

Address _____ Phone

City _____ State _____ Zip _____ Fax

CONTRACT RECEIPT

Receipt of the Contract is acknowledged.

Escrow Agent _____ Received by _____ Email Address _____ Date

Address _____ Phone

City _____ State _____ Zip _____ Fax

ADDITIONAL EARNEST MONEY RECEIPT

Receipt of $_____ additional Earnest Money in the form of _____
is acknowledged.

Escrow Agent _____ Received by _____ Email Address _____ Date/Time

Address _____ Phone

City _____ State _____ Zip _____ Fax

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PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)

ONE TO FOUR FAMILY RESIDENTIAL CONTRACT (RESALE)

NOTICE: Not For Use For Condominium Transactions

EQUAL HOUSING OPPORTUNITY

1. PARTIES: The parties to this contract are _____ (Seller) and _____ (Buyer). Seller agrees to sell and convey to Buyer and Buyer agrees to buy from Seller the Property defined below.

2. PROPERTY: The land, improvements and accessories are collectively referred to as the ["] Property["] (Property).

A. LAND: Lot _____ Block _____, _____ Addition, City of _____, County of _____, Texas, known as _____ (address/zip code), or as described on attached exhibit.

B. IMPROVEMENTS: The house, garage and all other fixtures and improvements attached to the above-described real property, including without limitation, the following **permanently installed and built-in items,** if any: all equipment and appliances, valances, screens, shutters, awnings, wall-to-wall carpeting, mirrors, ceiling fans, attic fans, mail boxes, television antennas, mounts and brackets for televisions and speakers, heating and air-conditioning units, security and fire detection equipment, wiring, plumbing and lighting fixtures, chandeliers, water softener system, kitchen equipment, garage door openers, cleaning equipment, shrubbery, landscaping, outdoor cooking equipment, and all other property owned by Seller and attached to the above described real property.

C. ACCESSORIES: The following described related accessories, if any: window air conditioning units, stove, fireplace screens, curtains and rods, blinds, window shades, draperies and rods, door keys, mailbox keys, above ground pool, swimming pool equipment and maintenance accessories, artificial fireplace logs, and controls for: (i) garage doors, (ii) entry gates, and (iii) other improvements and accessories.

D. EXCLUSIONS: The following improvements and accessories will be retained by Seller and must be removed prior to delivery of possession: _____ _____.

E. RESERVATIONS: Any reservation for oil, gas, or other minerals, water, timber, or other interests is made in accordance with an attached addendum.

3. SALES PRICE:

A. Cash portion of Sales Price payable by Buyer at closing ..... $_____

B. Sum of all financing described in the attached: ❑ Third Party Financing Addendum, ❑ Loan Assumption Addendum, ❑ Seller Financing Addendum ..... $_____

C. Sales Price (Sum of A and B) ..... $_____

4. LEASES:

A. The Property is subject to the following types of leases to which the Seller is a party, including any addendum, amendment, or move-in condition form (Leases):

❑ Residential Leases

❑ Oil and Gas or Mineral Leases

❑ Leases of Fixtures (for example, solar panels, propane tanks, water softener)

❑ Other: _____

B. Delivery of Leases (check one box only):

❑ (1) Buyer has received a copy of all Leases.

❑ (2) Buyer has not received a copy of all Leases. Seller shall provide a copy of the Leases within 3 days after the Effective Date. Buyer may terminate the contract within ____ days after the date the Buyer receives the Leases and the earnest money shall be refunded to Buyer.

C. After the Effective Date, Seller may not execute any new lease or amend any Lease without Buyer's written consent.

[~~**LICENSE HOLDER DISCLOSURE:** Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as a trustee or of which the license holder or the license holder's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable: _____ _____.~~]

5. EARNEST MONEY: Within 3 days after the Effective Date, Buyer must deliver $_____ as earnest money to _____, as escrow agent, at _____ (address). Buyer shall deliver additional

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earnest money of $_____ to escrow agent within _____ days after the Effective Date of this contract. If Buyer fails to deliver the earnest money within the time required, Seller may terminate this contract or exercise Seller's remedies under Paragraph 15, or both, by providing notice to Buyer before Buyer delivers the earnest money. If the last day to deliver the earnest money falls on a Saturday, Sunday, or legal holiday, the time to deliver the earnest money is extended until the end of the next day that is not a Saturday, Sunday, or legal holiday. **Time is of the essence for this paragraph.**

6. TITLE POLICY AND SURVEY:

A. TITLE POLICY: Seller shall furnish to Buyer at ❑ Seller's ❑ Buyer's expense an owner policy of title insurance (Title Policy) issued by _____ (Title Company) in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances) and the following exceptions:
(1) Restrictive covenants common to the platted subdivision in which the Property is located.
(2) The standard printed exception for standby fees, taxes and assessments.
(3) Liens created as part of the financing described in Paragraph 3.
(4) Utility easements created by the dedication deed or plat of the subdivision in which the Property is located.
(5) Reservations or exceptions otherwise permitted by this contract or as may be approved by Buyer in writing.
(6) The standard printed exception as to marital rights.
(7) The standard printed exception as to waters, tidelands, beaches, streams, and related matters.
(8) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements:
❑(i) will not be amended or deleted from the title policy; or
❑(ii) will be amended to read, "shortages in area" at the expense of ❑Buyer ❑Seller.
(9) The exception or exclusion regarding minerals approved by the Texas Department of Insurance.

B. COMMITMENT: Within 20 days after the Title Company receives a copy of this contract, Seller shall furnish to Buyer a commitment for title insurance (Commitment) and, at Buyer's expense, legible copies of restrictive covenants and documents evidencing exceptions in the Commitment (Exception Documents) other than the standard printed exceptions. Seller authorizes the Title Company to deliver the Commitment and Exception Documents to Buyer at Buyer's address shown in Paragraph 21. If the Commitment and Exception Documents are not delivered to Buyer within the specified time, the time for delivery will be automatically extended up to 15 days or 3 days before the Closing Date, whichever is earlier. If the Commitment and Exception Documents are not delivered within the time required, Buyer may terminate this contract and the earnest money will be refunded to Buyer.

C. SURVEY: The survey must be made by a registered professional land surveyor acceptable to the Title Company and Buyer's lender(s). (Check one box only)

❑(1) Within _____ days after the Effective Date of this contract, Seller shall furnish to Buyer and Title Company Seller's existing survey of the Property and a Residential Real Property Affidavit promulgated by the Texas Department of Insurance (T-47 Affidavit). **If Seller fails to furnish the existing survey or affidavit within the time prescribed, Buyer shall obtain a new survey at Seller's expense no later than 3 days prior to Closing Date.** If the existing survey or affidavit is not acceptable to Title Company or Buyer's lender(s), Buyer shall obtain a new survey at ❑Seller's ❑Buyer's expense no later than 3 days prior to Closing Date.

❑(2) Within _____ days after the Effective Date of this contract, Buyer shall obtain a new survey at Buyer's expense. Buyer is deemed to receive the survey on the date of actual receipt or the date specified in this paragraph, whichever is earlier.

❑(3) Within _____ days after the Effective Date of this contract, Seller, at Seller's expense shall furnish a new survey to Buyer.

D. OBJECTIONS: Buyer may object in writing to defects, exceptions, or encumbrances to title: disclosed on the survey other than items 6A(1) through (7) above; disclosed in the Commitment other than items 6A(1) through (9) above; or which prohibit the following use or activity: _____.
Buyer must object the earlier of (i) the Closing Date or (ii) _____ days after Buyer receives the Commitment, Exception Documents, and the survey. Buyer's failure to object within the time allowed will constitute a waiver of Buyer's right to object; except that the requirements in Schedule C of the Commitment are not waived by Buyer. Provided Seller is not obligated to incur any expense, Seller shall cure any timely objections of Buyer or any third party lender within 15 days after Seller receives the objections (Cure Period) and the Closing Date will be

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extended as necessary. If objections are not cured within the Cure Period, Buyer may, by delivering notice to Seller within 5 days after the end of the Cure Period: (i) terminate this contract and the earnest money will be refunded to Buyer; or (ii) waive the objections. If Buyer does not terminate within the time required, Buyer shall be deemed to have waived the objections. If the Commitment or Survey is revised or any new Exception Document(s) is delivered, Buyer may object to any new matter revealed in the revised Commitment or Survey or new Exception Document(s) within the same time stated in this paragraph to make objections beginning when the revised Commitment, Survey, or Exception Document(s) is delivered to Buyer.

E. TITLE NOTICES:

(1) ABSTRACT OR TITLE POLICY: Broker advises Buyer to have an abstract of title covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a Title Policy. If a Title Policy is furnished, the Commitment should be promptly reviewed by an attorney of Buyer's choice due to the time limitations on Buyer's right to object.

(2) MEMBERSHIP IN PROPERTY OWNERS ASSOCIATION(S): The Property ❑is ❑is not subject to mandatory membership in a property owners association(s). If the Property is subject to mandatory membership in a property owners association(s), Seller notifies Buyer under §5.012, Texas Property Code, that, as a purchaser of property in the residential community identified in Paragraph 2A in which the Property is located, you are obligated to be a member of the property owners association(s). Restrictive covenants governing the use and occupancy of the Property and all dedicatory instruments governing the establishment, maintenance, or operation of this residential community have been or will be recorded in the Real Property Records of the county in which the Property is located. Copies of the restrictive covenants and dedicatory instruments may be obtained from the county clerk. **You are obligated to pay assessments to the property owners association(s). The amount of the assessments is subject to change. Your failure to pay the assessments could result in enforcement of the association's lien on and the foreclosure of the Property.**

Section 207.003, Property Code, entitles an owner to receive copies of any document that governs the establishment, maintenance, or operation of a subdivision, including, but not limited to, restrictions, bylaws, rules and regulations, and a resale certificate from a property owners' association. A resale certificate contains information including, but not limited to, statements specifying the amount and frequency of regular assessments and the style and cause number of lawsuits to which the property owners' association is a party, other than lawsuits relating to unpaid ad valorem taxes of an individual member of the association. These documents must be made available to you by the property owners' association or the association's agent on your request.

If Buyer is concerned about these matters, the TREC promulgated Addendum for Property Subject to Mandatory Membership in a Property Owners Association(s) should be used.

(3) STATUTORY TAX DISTRICTS: If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fee of the district prior to final execution of this contract.

(4) TIDE WATERS: If the Property abuts the tidally influenced waters of the state, §33.135, Texas Natural Resources Code, requires a notice regarding coastal area property to be included in the contract. An addendum containing the notice promulgated by TREC or required by the parties must be used.

(5) ANNEXATION: If the Property is located outside the limits of a municipality, Seller notifies Buyer under §5.011, Texas Property Code, that the Property may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Property is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Property for further information.

(6) PROPERTY LOCATED IN A CERTIFICATED SERVICE AREA OF A UTILITY SERVICE PROVIDER: Notice required by §13.257, Water Code: The real property, described in Paragraph 2, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider

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to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned Buyer hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in Paragraph 2 or at closing of purchase of the real property.

(7) PUBLIC IMPROVEMENT DISTRICTS: If the Property is in a public improvement district, §5.014, Property Code, requires Seller to notify Buyer as follows: As a purchaser of this parcel of real property you are obligated to pay an assessment to a municipality or county for an improvement project undertaken by a public improvement district under Chapter 372, Local Government Code. The assessment may be due annually or in periodic installments. More information concerning the amount of the assessment and the due dates of that assessment may be obtained from the municipality or county levying the assessment. The amount of the assessments is subject to change. Your failure to pay the assessments could result in a lien on and the foreclosure of your property.

(8) TRANSFER FEES: If the Property is subject to a private transfer fee obligation, §5.205, Property Code, requires Seller to notify Buyer as follows: The private transfer fee obligation may be governed by Chapter 5, Subchapter G of the Texas Property Code.

(9) PROPANE GAS SYSTEM SERVICE AREA: If the Property is located in a propane gas system service area owned by a distribution system retailer, Seller must give Buyer written notice as required by §141.010, Texas Utilities Code. An addendum containing the notice approved by TREC or required by the parties should be used.

(10) NOTICE OF WATER LEVEL FLUCTUATIONS: If the Property adjoins an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, Seller hereby notifies Buyer: "The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including as a result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions."

7. PROPERTY CONDITION:

A. ACCESS, INSPECTIONS AND UTILITIES: Seller shall permit Buyer and Buyer's agents access to the Property at reasonable times. Buyer may have the Property inspected by inspectors selected by Buyer and licensed by TREC or otherwise permitted by law to make inspections. Any hydrostatic testing must be separately authorized by Seller in writing. Seller at Seller's expense shall immediately cause existing utilities to be turned on and shall keep the utilities on during the time this contract is in effect.

B. SELLER'S DISCLOSURE NOTICE PURSUANT TO §5.008, TEXAS PROPERTY CODE (Notice):
(Check one box only)

❑ (1) Buyer has received the Notice.

❑ (2) Buyer has not received the Notice. Within _____ days after the Effective Date of this contract, Seller shall deliver the Notice to Buyer. If Buyer does not receive the Notice, Buyer may terminate this contract at any time prior to the closing and the earnest money will be refunded to Buyer. If Seller delivers the Notice, Buyer may terminate this contract for any reason within 7 days after Buyer receives the Notice or prior to the closing, whichever first occurs, and the earnest money will be refunded to Buyer.

❑ (3)The Seller is not required to furnish the notice under the Texas Property Code.

C. SELLER'S DISCLOSURE OF LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS is required by Federal law for a residential dwelling constructed prior to 1978.

D. ACCEPTANCE OF PROPERTY CONDITION: "As Is" means the present condition of the Property with any and all defects and without warranty except for the warranties of title and the warranties in this contract. Buyer's agreement to accept the Property As Is under Paragraph 7D(1) or (2) does not preclude Buyer from inspecting the Property under Paragraph 7A, from negotiating repairs or treatments in a subsequent amendment, or from terminating this contract during the Option Period, if any.
(Check one box only)

❑ (1) Buyer accepts the Property As Is.

❑ (2) Buyer accepts the Property As Is provided Seller, at Seller's expense, shall complete the following specific repairs and treatments: _____
_____.
(Do not insert general phrases, such as "subject to inspections" that do not identify specific repairs and treatments.)

E. LENDER REQUIRED REPAIRS AND TREATMENTS: Unless otherwise agreed in writing, neither party is obligated to pay for lender required repairs, which includes treatment for wood destroying insects. If the parties do not agree to pay for the lender required repairs or treatments, this contract will terminate and the earnest money will be refunded to Buyer. If the cost of lender required repairs and treatments exceeds 5% of the Sales Price, Buyer may

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terminate this contract and the earnest money will be refunded to Buyer.

F. COMPLETION OF REPAIRS AND TREATMENTS: Unless otherwise agreed in writing: (i) Seller shall complete all agreed repairs and treatments prior to the Closing Date; and (ii) all required permits must be obtained, and repairs and treatments must be performed by persons who are licensed to provide such repairs or treatments or, if no license is required by law, are commercially engaged in the trade of providing such repairs or treatments. At Buyer's election, any transferable warranties received by Seller with respect to the repairs and treatments will be transferred to Buyer at Buyer's expense. If Seller fails to complete any agreed repairs and treatments prior to the Closing Date, Buyer may exercise remedies under Paragraph 15 or extend the Closing Date up to 5 days if necessary for Seller to complete the repairs and treatments.

G. ENVIRONMENTAL MATTERS: Buyer is advised that the presence of wetlands, toxic substances, including asbestos and wastes or other environmental hazards, or the presence of a threatened or endangered species or its habitat may affect Buyer's intended use of the Property. If Buyer is concerned about these matters, an addendum promulgated by TREC or required by the parties should be used.

H. RESIDENTIAL SERVICE CONTRACTS: Buyer may purchase a residential service contract from a residential service company licensed by TREC. If Buyer purchases a residential service contract, Seller shall reimburse Buyer at closing for the cost of the residential service contract in an amount not exceeding $_____. Buyer should review any residential service contract for the scope of coverage, exclusions and limitations. **The purchase of a residential service contract is optional. Similar coverage may be purchased from various companies authorized to do business in Texas.**

8. LICENSE HOLDERS: [~~BROKERS' FEES:~~]

A. All obligations of the parties for payment of brokers' fees are contained in separate written agreements.

B. Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as a trustee or of which the license holder or the license holder's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable: _____
_____.

9. CLOSING:

A. The closing of the sale will be on or before _____, 20____, or within 7 days after objections made under Paragraph 6D have been cured or waived, whichever date is later (Closing Date). If either party fails to close the sale by the Closing Date, the non-defaulting party may exercise the remedies contained in Paragraph 15.

B. At closing:

(1) Seller shall execute and deliver a general warranty deed conveying title to the Property to Buyer and showing no additional exceptions to those permitted in Paragraph 6 and furnish tax statements or certificates showing no delinquent taxes on the Property.

(2) Buyer shall pay the Sales Price in good funds acceptable to the escrow agent.

(3) Seller and Buyer shall execute and deliver any notices, statements, certificates, affidavits, releases, loan documents and other documents reasonably required for the closing of the sale and the issuance of the Title Policy.

(4) There will be no liens, assessments, or security interests against the Property which will not be satisfied out of the sales proceeds unless securing the payment of any loans assumed by Buyer and assumed loans will not be in default.

(5) If the Property is subject to a residential lease, Seller shall transfer security deposits (as defined under §92.102, Property Code), if any, to Buyer. In such an event, Buyer shall deliver to the tenant a signed statement acknowledging that the Buyer has acquired the Property and is responsible for the return of the security deposit, and specifying the exact dollar amount of the security deposit.

10. POSSESSION:

A. Buyer's Possession: Seller shall deliver to Buyer possession of the Property in its present or required condition, ordinary wear and tear excepted: ❑upon closing and funding ❑according to a temporary residential lease form promulgated by TREC or other written lease required by the parties. Any possession by Buyer prior to closing or by Seller after closing which is not authorized by a written lease will establish a tenancy at sufferance relationship between the parties. **Consult your insurance agent prior to change of ownership and possession because insurance coverage may be limited or terminated. The absence of a written lease or appropriate insurance coverage may expose the parties to economic loss.**

B. [~~Leases:~~]

[~~(1)~~]After the Effective Date, Seller may not [~~execute any lease (including but not limited to mineral leases) or~~] convey any interest in the Property without Buyer's written

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consent.

[~~(2) If the Property is subject to any lease to which Seller is a party, Seller shall deliver to Buyer copies of the lease(s) and any move-in condition form signed by the tenant within 7 days after the Effective Date of the contract.~~]

11. SPECIAL PROVISIONS: (Insert only factual statements and business details applicable to the sale. TREC rules prohibit license holders from adding factual statements or business details for which a contract addendum, lease or other form has been promulgated by TREC for mandatory use.)

12. SETTLEMENT AND OTHER EXPENSES:

A. The following expenses must be paid at or prior to closing:

(1) Expenses payable by Seller (Seller's Expenses):

(a) Releases of existing liens, including prepayment penalties and recording fees; release of Seller's loan liability; tax statements or certificates; preparation of deed; one-half of escrow fee; and other expenses payable by Seller under this contract.

(b) Seller shall also pay an amount not to exceed $_____ to be applied in the following order: Buyer's Expenses which Buyer is prohibited from paying by FHA, VA, Texas Veterans Land Board or other governmental loan programs, and then to other Buyer's Expenses as allowed by the lender.

(2) Expenses payable by Buyer (Buyer's Expenses): Appraisal fees; loan application fees; origination charges; credit reports; preparation of loan documents; interest on the notes from date of disbursement to one month prior to dates of first monthly payments; recording fees; copies of easements and restrictions; loan title policy with endorsements required by lender; loan-related inspection fees; photos; amortization schedules; one-half of escrow fee; all prepaid items, including required premiums for flood and hazard insurance, reserve deposits for insurance, ad valorem taxes and special governmental assessments; final compliance inspection; courier fee; repair inspection; underwriting fee; wire transfer fee; expenses incident to any loan; Private Mortgage Insurance Premium (PMI), VA Loan Funding Fee, or FHA Mortgage Insurance Premium (MIP) as required by the lender; and other expenses payable by Buyer under this contract.

B. If any expense exceeds an amount expressly stated in this contract for such expense to be paid by a party, that party may terminate this contract unless the other party agrees to pay such excess. Buyer may not pay charges and fees expressly prohibited by FHA, VA, Texas Veterans Land Board or other governmental loan program regulations.

13. PRORATIONS: Taxes for the current year, interest, maintenance fees, assessments, dues and rents will be prorated through the Closing Date. The tax proration may be calculated taking into consideration any change in exemptions that will affect the current year's taxes. If taxes for the current year vary from the amount prorated at closing, the parties shall adjust the prorations when tax statements for the current year are available. If taxes are not paid at or prior to closing, Buyer shall pay taxes for the current year.

14. CASUALTY LOSS: If any part of the Property is damaged or destroyed by fire or other casualty after the Effective Date of this contract, Seller shall restore the Property to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller fails to do so due to factors beyond Seller's control, Buyer may (a) terminate this contract and the earnest money will be refunded to Buyer (b) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (c) accept the Property in its damaged condition with an assignment of insurance proceeds, if permitted by Seller's insurance carrier, and receive credit from Seller at closing in the amount of the deductible under the insurance policy. Seller's obligations under this paragraph are independent of any other obligations of Seller under this contract.

15. DEFAULT: If Buyer fails to comply with this contract, Buyer will be in default, and Seller may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money as liquidated damages, thereby releasing both parties from this contract. If Seller fails to comply with this contract, Seller will be in default and Buyer may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money, thereby releasing both parties from this contract.

16. MEDIATION: It is the policy of the State of Texas to encourage resolution of disputes through alternative dispute resolution procedures such as mediation. Any dispute between Seller and Buyer related to this contract which is not resolved through informal discussion will be submitted to a mutually acceptable mediation service or provider. The parties to the mediation

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shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

17. ATTORNEY'S FEES: A Buyer, Seller, Listing Broker, Other Broker, or escrow agent who prevails in any legal proceeding related to this contract is entitled to recover reasonable attorney's fees and all costs of such proceeding.

18. ESCROW:

A. ESCROW: The escrow agent is not (i) a party to this contract and does not have liability for the performance or nonperformance of any party to this contract, (ii) liable for interest on the earnest money and (iii) liable for the loss of any earnest money caused by the failure of any financial institution in which the earnest money has been deposited unless the financial institution is acting as escrow agent.

B. EXPENSES: At closing, the earnest money must be applied first to any cash down payment, then to Buyer's Expenses and any excess refunded to Buyer. If no closing occurs, escrow agent may: (i) require a written release of liability of the escrow agent from all parties, (ii) require payment of unpaid expenses incurred on behalf of a party, and (iii) only deduct from the earnest money the amount of unpaid expenses incurred on behalf of the party receiving the earnest money.

C. DEMAND: Upon termination of this contract, either party or the escrow agent may send a release of earnest money to each party and the parties shall execute counterparts of the release and deliver same to the escrow agent. If either party fails to execute the release, either party may make a written demand to the escrow agent for the earnest money. If only one party makes written demand for the earnest money, escrow agent shall promptly provide a copy of the demand to the other party. If escrow agent does not receive written objection to the demand from the other party within 15 days, escrow agent may disburse the earnest money to the party making demand reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and escrow agent may pay the same to the creditors. If escrow agent complies with the provisions of this paragraph, each party hereby releases escrow agent from all adverse claims related to the disbursal of the earnest money.

D. DAMAGES: Any party who wrongfully fails or refuses to sign a release acceptable to the escrow agent within 7 days of receipt of the request will be liable to the other party for (i) damages; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.

E. NOTICES: Escrow agent's notices will be effective when sent in compliance with Paragraph 21. Notice of objection to the demand will be deemed effective upon receipt by escrow agent.

19. REPRESENTATIONS: All covenants, representations and warranties in this contract survive closing. If any representation of Seller in this contract is untrue on the Closing Date, Seller will be in default. Unless expressly prohibited by written agreement, Seller may continue to show the Property and receive, negotiate and accept back up offers.

20. FEDERAL TAX REQUIREMENTS: If Seller is a "foreign person," as defined by Internal Revenue Code and its regulations, or if Seller fails to deliver an affidavit or a certificate of non-foreign status to Buyer that Seller is not a "foreign person," then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax forms. Internal Revenue Service regulations require filing written reports if currency in excess of specified amounts is received in the transaction.

21. NOTICES: All notices from one party to the other must be in writing and are effective when mailed to, hand-delivered at, or transmitted by fax or electronic transmission as follows:

To Buyer at:		**To Seller at:**	
Phone:	( )	Phone:	( )
Fax:	( )	Fax:	( )
E-mail:		E-mail:	

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22. AGREEMENT OF PARTIES: This contract contains the entire agreement of the parties and cannot be changed except by their written agreement. Addenda which are a part of this contract are (Check all applicable boxes):

- ❑ Third Party Financing Addendum
- ❑ Seller Financing Addendum
- ❑ Addendum for Property Subject to Mandatory Membership in a Property Owners Association
- ❑ Buyer's Temporary Residential Lease
- ❑ Loan Assumption Addendum
- ❑ Addendum for Sale of Other Property by Buyer
- ❑ Addendum for Reservation of Oil, Gas and Other Minerals
- ❑ Addendum for "Back-Up" Contract
- ❑ Addendum for Coastal Area Property
- ❑ Addendum for Authorizing Hydrostatic Testing
- ❑ Addendum Concerning Right to Terminate Due to Lender's Appraisal
- ❑ Environmental Assessment, Threatened or Endangered Species and Wetlands Addendum
- ❑ Seller's Temporary Residential Lease
- ❑ Short Sale Addendum
- ❑ Addendum for Property Located Seaward of the Gulf Intracoastal Waterway
- ❑ Addendum for Seller's Disclosure of Information on Lead-based Paint and Lead-based Paint Hazards as Required by Federal Law
- ❑ Addendum for Property in a Propane Gas System Service Area
- ❑ Other (list): _____

23. TERMINATION OPTION: For nominal consideration, the receipt of which is hereby acknowledged by Seller, and Buyer's agreement to pay Seller $_____ (Option Fee) within 3 days after the Effective Date of this contract, Seller grants Buyer the unrestricted right to terminate this contract by giving notice of termination to Seller within _____ days after the Effective Date of this contract (Option Period). Notices under this paragraph must be given by 5:00 p.m. (local time where the Property is located) by the date specified. If no dollar amount is stated as the Option Fee or if Buyer fails to pay the Option Fee to Seller within the time prescribed, this paragraph will not be a part of this contract and Buyer shall not have the unrestricted right to terminate this contract. If Buyer gives notice of termination within the time prescribed, the Option Fee will not be refunded; however, any earnest money will be refunded to Buyer. The Option Fee ❑will ❑will not be credited to the Sales Price at closing. **Time is of the essence for this paragraph and strict compliance with the time for performance is required.**

24. CONSULT AN ATTORNEY BEFORE SIGNING: TREC rules prohibit real estate license holders from giving legal advice. READ THIS CONTRACT CAREFULLY.

Buyer's Attorney is: _____	Seller's Attorney is: _____
Phone: ( )	Phone: ( )
Fax: ( )	Fax: ( )
E-mail:	E-mail:

EXECUTED the _____day of _____, 20____ (Effective Date).
(BROKER: FILL IN THE DATE OF FINAL ACCEPTANCE.)

Buyer _____ Seller _____

Buyer _____ Seller _____

The form of this contract has been approved by the Texas Real Estate Commission. TREC forms are intended for use only by trained real estate license holders. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, (512) 936-3000 (http://www.trec.texas.gov) TREC NO. 20-15 [20-14]. This form replaces TREC NO. 20-14 [20-13].

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BROKER INFORMATION
(Print name(s) only. Do not sign)

Other Broker Firm | License No.

represents ❑ Buyer only as Buyer's agent
❑ Seller as Listing Broker's subagent

Associate's Name | License No.

Associate's Email Address | Phone

Licensed Supervisor of Associate | License No.

Other Broker's Address | Phone

City | State | Zip

Listing Broker Firm | License No.

represents ❑ Seller and Buyer as an intermediary
❑ Seller only as Seller's agent

Listing Associate's Name | License No.

Listing Associate's Email Address | Phone

Licensed Supervisor of Listing Associate | License No.

Listing Broker's Office Address | Phone

City | State | Zip

Selling Associate's Name | License No.

Selling Associate's Email Address | Phone

Licensed Supervisor of Selling Associate | License No.

Selling Associate's Office Address

City | State | Zip

~~[Listing Broker has agreed to pay Other Broker _____ of the total sales price when the Listing Broker's fee is received. Escrow agent is authorized and directed to pay Other Broker from Listing Broker's fee at closing.]~~

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OPTION FEE RECEIPT

Receipt of $_____ (Option Fee) in the form of _____
is acknowledged.

Seller or Listing Broker _____ Date

EARNEST MONEY RECEIPT

Receipt of $_____ Earnest Money in the form of _____
is acknowledged.

Escrow Agent Received by Email Address Date/Time

Address Phone

City State Zip Fax

CONTRACT RECEIPT

Receipt of the Contract is acknowledged.

Escrow Agent Received by Email Address Date

Address Phone

City State Zip Fax

ADDITIONAL EARNEST MONEY RECEIPT

Receipt of $_____ additional Earnest Money in the form of _____
is acknowledged.

Escrow Agent Received by Email Address Date/Time

Address Phone

City State Zip Fax

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PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC) 2019 [2-12-

NEW HOME CONTRACT

(Incomplete Construction)

NOTICE: Not For Use For Condominium Transactions or Closings Prior to Completion of Construction

EQUAL HOUSING OPPORTUNITY

1. PARTIES: The parties to this contract are _____ (Seller) and _____ (Buyer). Seller agrees to sell and convey to Buyer and Buyer agrees to buy from Seller the Property defined below.

2. PROPERTY: Lot _____, Block _____, _____ Addition, City of _____, County of _____ Texas, known as _____ (address/zip code), or as described on attached exhibit, together with: (i) improvements, fixtures and all other property described in the Construction Documents; and (ii) all rights, privileges and appurtenances thereto, including but not limited to: permits, easements, and cooperative and association memberships. All property sold by this contract is called the [“]Property[”] (Property).
RESERVATIONS: Any reservation for oil, gas, or other minerals, water, timber, or other interests is made in accordance with an attached addendum.

3. SALES PRICE:

A. Cash portion of Sales Price payable by Buyer at closing ..... $_____

B. Sum of all financing described in the attached: ❑ Third Party Financing Addendum, ❑ Loan Assumption Addendum, ❑ Seller Financing Addendum ..... $_____

C. Sales Price (Sum of A and B) ..... $_____

4. LEASES:

A. The Property is subject to the following types of leases to which the Seller is a party, including any addendum, amendment, or move-in condition form (Leases):

❑ Residential Leases

❑ Oil and Gas or Mineral Leases

❑ Leases of Fixtures (for example, solar panels, propane tanks, water softener)

❑ Other: _____

B. Delivery of Leases (check one box only):

❑ (1) Buyer has received a copy of all Leases.

❑ (2) Buyer has not received a copy of all Leases. Seller shall provide a copy of the Leases within 3 days after the Effective Date. Buyer may terminate the contract within ____ days after the date the Buyer receives the Leases and the earnest money shall be refunded to Buyer.

C. After the Effective Date, Seller may not execute any new lease or amend any Lease without Buyer's written consent.

~~[LICENSE HOLDER DISCLOSURE: Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as trustee or of which the license holder or the license holder's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable: _____ _____.]~~

5. EARNEST MONEY: Within 3 days after the Effective Date, Buyer must deliver $_____ as earnest money to _____, as escrow agent, at _____ (address). Buyer shall deliver additional earnest money of $_____ to escrow agent within _____ days after the Effective Date of this contract. If Buyer fails to deliver the earnest money within the time required, Seller may terminate this contract or exercise Seller's remedies under Paragraph 15, or both, by providing notice to Buyer before Buyer delivers the earnest money. If the last day to deliver the earnest money falls on a Saturday, Sunday, or legal holiday, the time to deliver the earnest money is extended until the end of the next day that is not a Saturday, Sunday, or legal holiday. **Time is of the essence for this paragraph.**

6. TITLE POLICY AND SURVEY:

A. TITLE POLICY: Seller shall furnish to Buyer at ❑Seller's ❑Buyer's expense an owner policy of title insurance (Title Policy) issued by _____ (Title Company) in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances) and the following exceptions:

(1) Restrictive covenants common to the platted subdivision in which the Property is located.
(2) The standard printed exception for standby fees, taxes and assessments.
(3) Liens created as part of the financing described in Paragraph 3.
(4) Utility easements created by the dedication deed or plat of the subdivision in which the Property is located.
(5) Reservations or exceptions otherwise permitted by this contract or as may be approved by Buyer in writing.
(6) The standard printed exception as to marital rights.

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(7) The standard printed exception as to waters, tidelands, beaches, streams, and related matters.

(8) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements:

❑ (i) will not be amended or deleted from the title policy; or

❑ (ii) will be amended to read, "shortages in area" at the expense of ❑Buyer ❑Seller.

(9) The exception or exclusion regarding minerals approved by the Texas Department of Insurance.

B. COMMITMENT: Within 20 days after the Title Company receives a copy of this contract, Seller shall furnish to Buyer a commitment for title insurance (Commitment) and, at Buyer's expense, legible copies of restrictive covenants and documents evidencing exceptions in the Commitment (Exception Documents) other than the standard printed exceptions. Seller authorizes the Title Company to deliver the Commitment and Exception Documents to Buyer at Buyer's address shown in Paragraph 21. If the Commitment and Exception Documents are not delivered to Buyer within the specified time, the time for delivery will be automatically extended up to 15 days or 3 days before the Closing Date, whichever is earlier. If the Commitment and Exception Documents are not delivered within the time required, Buyer may terminate this contract and the earnest money will be refunded to Buyer.

C. SURVEY: The survey must be made after the Substantial Completion Date by a registered professional land surveyor acceptable to the Title Company and Buyer's lender(s).

(Check one box only)

❑ (1) At least _____ days prior to the Closing Date, Seller, at Seller's expense, shall provide a new survey to Buyer.

❑ (2) At least _____ days prior to the Closing Date, Buyer, at Buyer's expense, shall obtain a new survey. Buyer is deemed to receive the survey on the date of actual receipt or the date specified in this paragraph, whichever is earlier.

D. OBJECTIONS: Buyer may object in writing to defects, exceptions, or encumbrances to title: disclosed on the survey other than items 6A(1) through (7) above; disclosed in the Commitment other than items 6A(1) through (9) above; or which prohibit the following use or activity: _____
_____.

Buyer must object the earlier of (i) the Closing Date or (ii) _____ days after Buyer receives the Commitment, Exception Documents, and the survey. Buyer's failure to object within the time allowed will constitute a waiver of Buyer's right to object; except that the requirements in Schedule C of the Commitment are not waived by Buyer. Provided Seller is not obligated to incur any expense, Seller shall cure any timely objections of Buyer or any third party lender within 15 days after Seller receives the objections (Cure Period) and the Closing Date will be extended as necessary. If objections are not cured within the Cure Period, Buyer may, by delivering notice to Seller within 5 days after the end of the Cure Period: (i) terminate this contract and the earnest money will be refunded to Buyer; or (ii) waive the objections. If Buyer does not terminate within the time required, Buyer shall be deemed to have waived the objections. If the Commitment or Survey is revised or any new Exception Document(s) is delivered, Buyer may object to any new matter revealed in the revised Commitment or Survey or new Exception Document(s) within the same time stated in this paragraph to make objections beginning when the revised Commitment, Survey, or Exception Document(s) is delivered to Buyer.

E. TITLE NOTICES:

(1) ABSTRACT OR TITLE POLICY: Broker advises Buyer to have an abstract of title covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a Title Policy. If a Title Policy is furnished, the Commitment should be promptly reviewed by an attorney of Buyer's choice due to the time limitations on Buyer's right to object.

(2) MEMBERSHIP IN PROPERTY OWNERS ASSOCIATION(S): The Property ❑is ❑is not subject to mandatory membership in a property owners association(s). If the Property is subject to mandatory membership in a property owners association(s), Seller notifies Buyer under §5.012, Texas Property Code, that, as a purchaser of property in the residential community identified in Paragraph 2A in which the Property is located, you are obligated to be a member of the property owners association(s). Restrictive covenants governing the use and occupancy of the Property and all dedicatory instruments governing the establishment, maintenance, and operation of this residential community have been or will be recorded in the Real Property Records of the county in which the Property is located. Copies of the restrictive covenants and dedicatory instruments may be obtained from the county clerk. **You are obligated to pay assessments to the property owners association(s). The amount of the assessments is subject to change. Your failure to pay the assessments could result in enforcement of the association's lien on and the foreclosure of the Property.**

Section 207.003, Property Code, entitles an owner to receive copies of any document that governs the establishment, maintenance, or operation of a subdivision, including,

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but not limited to, restrictions, bylaws, rules and regulations, and a resale certificate from a property owners' association. A resale certificate contains information including, but not limited to, statements specifying the amount and frequency of regular assessments and the style and cause number of lawsuits to which the property owners' association is a party, other than lawsuits relating to unpaid ad valorem taxes of an individual member of the association. These documents must be made available to you by the property owners' association or the association's agent on your request.
If Buyer is concerned about these matters, the TREC promulgated Addendum for Property Subject to Mandatory Membership in a Property Owners Association should be used.

(3) STATUTORY TAX DISTRICTS: If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fee of the district prior to final execution of this contract.

(4) TIDE WATERS: If the Property abuts the tidally influenced waters of the state, §33.135, Texas Natural Resources Code, requires a notice regarding coastal area property to be included in the contract. An addendum containing the notice promulgated by TREC or required by the parties must be used.

(5) ANNEXATION: If the Property is located outside the limits of a municipality, Seller notifies Buyer under §5.011, Texas Property Code, that the Property may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Property is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Property for further information.

(6) PROPERTY LOCATED IN A CERTIFICATED SERVICE AREA OF A UTILITY SERVICE PROVIDER: Notice required by §13.257, Water Code: The real property, described in Paragraph 2, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned Buyer hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in Paragraph 2 or at closing of purchase of the real property.

(7) PUBLIC IMPROVEMENT DISTRICTS: If the Property is in a public improvement district, §5.014, Property Code, requires Seller to notify Buyer as follows: As a purchaser of this parcel of real property you are obligated to pay an assessment to a municipality or county for an improvement project undertaken by a public improvement district under Chapter 372, Local Government Code. The assessment may be due annually or in periodic installments. More information concerning the amount of the assessment and the due dates of that assessment may be obtained from the municipality or county levying the assessment. The amount of the assessments is subject to change. Your failure to pay the assessments could result in a lien on and the foreclosure of your property.

(8) TRANSFER FEES: If the Property is subject to a private transfer fee obligation, §5.205, Property Code, requires Seller to notify Buyer as follows: The private transfer fee obligation may be governed by Chapter 5, Subchapter G of the Texas Property Code.

(9) PROPANE GAS SYSTEM SERVICE AREA: If the Property is located in a propane gas system service area owned by a distribution system retailer, Seller must give Buyer written notice as required by §141.010, Texas Utilities Code. An addendum containing the notice approved by TREC or required by the parties should be used.

(10) NOTICE OF WATER LEVEL FLUCTUATIONS: If the Property adjoins an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, Seller hereby notifies Buyer: "The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including as a result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions."

7. PROPERTY CONDITION:

A. ACCESS AND INSPECTIONS: Seller shall permit Buyer and Buyer's agents access to the Property at reasonable times. Buyer may have the Property inspected by inspectors selected by Buyer and licensed by TREC or otherwise permitted by law to make inspections.

B. CONSTRUCTION DOCUMENTS: Seller shall complete all improvements to the Property with due diligence in accordance with the Construction Documents. "Construction Documents" means the plans and specifications, the finish out schedules, any change orders, and any allowances related to the plans and specifications, finish out schedules, and change orders.

The Construction Documents have been signed by the parties and are incorporated into this contract by reference.

C. COST ADJUSTMENTS: All change orders must be in writing. Increase in costs resulting from change orders or items selected by Buyer which exceed the allowances specified in the Construction Documents will be paid by Buyer as follows: _____ _____. A decrease in costs resulting from change orders and unused allowances will reduce the Sales Price, with proportionate adjustments to the amounts in Paragraphs 3A and 3B as required by lender.

D. BUYER'S SELECTIONS: If the Construction Documents permit selections by Buyer, Buyer's selections will conform to Seller's normal standards as set out in the Construction Documents or will not, in Seller's judgment, adversely affect the marketability of the Property. Buyer will make required selections within _____ days after notice from Seller.

E. COMPLETION: Seller must commence construction no later than _____ days after the Effective Date of this contract. The improvements will be substantially completed in accordance with the Construction Documents and ready for occupancy not later than _____, 20___. The improvements will be deemed to be substantially completed in accordance with the Construction Documents upon the final inspection and approval by all applicable governmental authorities and any lender (Substantial Completion Date). Construction delays caused by acts of God, fire or other casualty, strikes, boycotts or nonavailability of materials for which no substitute of comparable quality and price is available will be added to the time allowed for substantial completion of the construction. However, in no event may the time for substantial completion extend beyond the Closing Date. Seller may substitute materials, equipment and appliances of comparable quality for those specified in the Construction Documents.

F. WARRANTIES: Except as expressly set forth in this contract, a separate writing, or provided by law, Seller makes no other express warranties. Seller shall assign to Buyer at closing all assignable manufacturer warranties.

G. INSULATION: As required by Federal Trade Commission Regulations, the information relating to the insulation installed or to be installed in the Improvements at the Property is: (check only one box below)

☐ (1) as shown in the attached specifications.

☐ (2) as follows:

(a) Exterior walls of improved living areas: insulated with _____ insulation to a thickness of _____ inches which yields an R-Value of _____.

(b) Walls in other areas of the home: insulated with _____ insulation to a thickness of _____ inches which yields an R-Value of _____.

(c) Ceilings in improved living areas: insulated with _____ insulation to a thickness of _____ inches which yields an R-Value of _____.

(d) Floors of improved living areas not applied to a slab foundation: insulated with _____ insulation to a thickness of _____ inches which yields an R-Value of _____.

(e) Other insulated areas: insulated with _____ insulation to a thickness of _____ inches which yields an R-Value of _____.

All stated R-Values are based on information provided by the manufacturer of the insulation.

H. ENVIRONMENTAL MATTERS: Buyer is advised that the presence of wetlands, toxic substances, including asbestos and wastes or other environmental hazards, or the presence of a threatened or endangered species or its habitat may affect Buyer's intended use of the Property. If Buyer is concerned about these matters, an addendum promulgated by TREC or required by the parties should be used.

I. SELLER'S DISCLOSURE: Except as otherwise disclosed in this contract, Seller has no knowledge of the following:

(1) any flooding of the Property which has had a material adverse effect on the use of the Property;

(2) any pending or threatened litigation, condemnation, or special assessment affecting the Property;

(3) any environmental hazards that materially and adversely affect the Property;

(4) any dumpsite, landfill, or underground tanks or containers now or previously located on the Property;

(5) any wetlands, as defined by federal or state law or regulation, affecting the Property; or any threatened or endangered species or their habitat affecting the Property.

J. RESIDENTIAL SERVICE CONTRACTS: Buyer may purchase a residential service contract from a residential service company licensed by TREC. If Buyer purchases a residential service contract, Seller shall reimburse Buyer at closing for the cost of the residential service contract in an amount not exceeding $ _____. Buyer should review any residential service contract for the scope of coverage, exclusions and limitations. **The purchase of a residential service contract is optional. Similar coverage may be purchased from various companies authorized to do business in Texas.**

8. LICENSE HOLDERS: [~~BROKERS' FEES:~~]

A. All obligations of the parties for payment of brokers' fees are contained in separate written agreements.

B. Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as a trustee or of which the license holder or the license

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holder's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable: _____ _____ _____.

9. CLOSING:

A. The closing of the sale will be on or before _____, 20_____, or within 7 days after objections made under Paragraph 6D have been cured or waived, whichever date is later (Closing Date). If either party fails to close the sale by the Closing Date, the non-defaulting party may exercise the remedies contained in Paragraph 15.

B. At closing:

(1) Seller shall execute and deliver a general warranty deed conveying title to the Property to Buyer and showing no additional exceptions to those permitted in Paragraph 6 and furnish tax statements or certificates showing no delinquent taxes on the Property.

(2) Buyer shall pay the Sales Price in good funds acceptable to the escrow agent.

(3) Seller and Buyer shall execute and deliver any notices, statements, certificates, affidavits, releases, loan documents and other documents reasonably required for the closing of the sale and the issuance of the Title Policy.

(4) There will be no liens, assessments, or security interests against the Property which will not be satisfied out of the sales proceeds unless securing payment of any loans assumed by Buyer and assumed loans will not be in default.

10. POSSESSION:

A. Buyer's Possession: Seller shall deliver to Buyer possession of the Property: ❑ upon closing and funding ❑ according to a temporary residential lease form promulgated by TREC or other written lease required by the parties. Any possession by Buyer prior to closing or by Seller after closing which is not authorized by a written lease will establish a tenancy at sufferance relationship between the parties. **Consult your insurance agent prior to change of ownership and possession because insurance coverage may be limited or terminated. The absence of a written lease or appropriate insurance coverage may expose the parties to economic loss.**

B. [~~Leases:~~] After the Effective Date, Seller may not [~~execute any lease (including but not limited to mineral leases) or~~] convey any interest in the Property without Buyer's written consent.

11. SPECIAL PROVISIONS: (Insert only factual statements and business details applicable to the sale. TREC rules prohibit license holders from adding factual statements or business details for which a contract addendum, lease or other form has been promulgated by TREC for mandatory use.)

12. SETTLEMENT AND OTHER EXPENSES:

A. The following expenses must be paid at or prior to closing:

(1) Expenses payable by Seller (Seller's Expenses):

(a) Releases of existing liens, including prepayment penalties and recording fees; release of Seller's loan liability; tax statements or certificates; preparation of deed; one-half of escrow fee; and other expenses payable by Seller under this contract.

(b) Seller shall also pay an amount not to exceed $ _____ to be applied in the following order: Buyer's Expenses which Buyer is prohibited from paying by FHA, VA, Texas Veterans Land Board or other governmental loan programs, and then to other Buyer's Expenses as allowed by the lender.

(2) Expenses payable by Buyer (Buyer's Expenses): Appraisal fees; loan application fees; origination charges; credit reports; preparation of loan documents; interest on the notes from date of disbursement to one month prior to dates of first monthly payments; recording fees; copies of easements and restrictions; loan title policy with endorsements required by lender; loan-related inspection fees; photos; amortization schedules; one-half of escrow fee; all prepaid items, including required premiums for flood and hazard insurance, reserve deposits for insurance, ad valorem taxes and special governmental assessments; final compliance inspection; courier fee; repair inspection; underwriting fee; wire transfer fee; expenses incident to any loan; Private Mortgage Insurance Premium (PMI), VA Loan Funding Fee, or FHA Mortgage Insurance Premium (MIP) as required by the lender; and other expenses payable by Buyer under this contract.

B. If any expense exceeds an amount expressly stated in this contract for such expense to be paid by a party, that party may terminate this contract unless the other party agrees to pay such excess. Buyer may not pay charges and fees expressly prohibited by FHA, VA, Texas Veterans Land Board or other governmental loan program regulations.

13. PRORATIONS AND ROLLBACK TAXES:

A. PRORATIONS: Taxes for the current year, maintenance fees, assessments, dues and rents will be prorated through the Closing Date. The tax proration may be calculated taking into consideration any change in exemptions that will affect the current year's taxes. If taxes for the current year vary from the amount prorated at closing, the parties shall adjust the prorations when tax statements for the current year are available. If taxes are not paid at or prior to closing, Buyer will be obligated to pay taxes for the current year.

B. ROLLBACK TAXES: If additional taxes, penalties, or interest (Assessments) are imposed because of Seller's use or change in use of the Property prior to closing, the Assessments will be the obligation of Seller. Obligations imposed by this paragraph will survive closing.

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14. CASUALTY LOSS: If any part of the Property is damaged or destroyed by fire or other casualty after the Effective Date of this contract, Seller shall restore the Property to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller fails to do so due to factors beyond Seller's control, Buyer may (a) terminate this contract and the earnest money will be refunded to Buyer (b) extend the time for performance up to 45 days and the Closing Date will be extended as necessary or (c) accept the Property in its damaged condition with an assignment of insurance proceeds, if permitted by Seller's insurance carrier, and receive credit from Seller at closing in the amount of the deductible under the insurance policy. Seller's obligations under this paragraph are independent of any other obligations of Seller under this contract.

15. DEFAULT: If Buyer fails to comply with this contract, Buyer will be in default, and Seller may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money as liquidated damages, thereby releasing both parties from this contract. If Seller fails to comply with this contract Seller will be in default and Buyer may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money, thereby releasing both parties from this contract.

16. MEDIATION: It is the policy of the State of Texas to encourage resolution of disputes through alternative dispute resolution procedures such as mediation. Subject to applicable law, any dispute between Seller and Buyer related to this contract which is not resolved through informal discussion will be submitted to a mutually acceptable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

17. ATTORNEY'S FEES: A Buyer, Seller, Listing Broker, Other Broker, or escrow agent who prevails in any legal proceeding related to this contract is entitled to recover reasonable attorney's fees and all costs of such proceeding.

18. ESCROW:

A. ESCROW: The escrow agent is not (i) a party to this contract and does not have liability for the performance or nonperformance of any party to this contract, (ii) liable for interest on the earnest money and (iii) liable for the loss of any earnest money caused by the failure of any financial institution in which the earnest money has been deposited unless the financial institution is acting as escrow agent.

B. EXPENSES: At closing, the earnest money must be applied first to any cash down payment, then to Buyer's Expenses and any excess refunded to Buyer. If no closing occurs, escrow agent may: (i) require a written release of liability of the escrow agent from all parties, (ii) require payment of unpaid expenses incurred on behalf of a party, and (iii) only deduct from the earnest money the amount of unpaid expenses incurred on behalf of the party receiving the earnest money.

C. DEMAND: Upon termination of this contract, either party or the escrow agent may send a release of earnest money to each party and the parties shall execute counterparts of the release and deliver same to the escrow agent. If either party fails to execute the release, either party may make a written demand to the escrow agent for the earnest money. If only one party makes written demand for the earnest money, escrow agent shall promptly provide a copy of the demand to the other party. If escrow agent does not receive written objection to the demand from the other party within 15 days, escrow agent may disburse the earnest money to the party making demand reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and escrow agent may pay the same to the creditors. If escrow agent complies with the provisions of this paragraph, each party hereby releases escrow agent from all adverse claims related to the disbursal of the earnest money.

D. DAMAGES: Any party who wrongfully fails or refuses to sign a release acceptable to the escrow agent within 7 days of receipt of the request will be liable to the other party for (i) damages (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.

E. NOTICES: Escrow agent's notices will be effective when sent in compliance with Paragraph 21. Notice of objection to the demand will be deemed effective upon receipt by escrow agent.

19. REPRESENTATIONS: All covenants, representations and warranties in this contract survive closing. If any representation of Seller in this contract is untrue on the Closing Date, Seller will be in default. Unless expressly prohibited by written agreement, Seller may continue to show the Property and receive, negotiate and accept back up offers.

20. FEDERAL TAX REQUIREMENTS: If Seller is a "foreign person," as defined by Internal Revenue Code and its regulations, or if Seller fails to deliver an affidavit or a certificate of non-foreign status to Buyer that Seller is not a "foreign person," then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax forms. Internal Revenue Service

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regulations require filing written reports if currency in excess of specified amounts is received in the transaction.

21. NOTICES: All notices from one party to the other must be in writing and are effective when mailed to, hand-delivered at, or transmitted by fax or electronic transmission as follows:

To Buyer at:		**To Seller at:**	
Phone:	( )	Phone:	( )
Fax:	( )	Fax:	( )
E-mail:		E-mail:	

22. AGREEMENT OF PARTIES: This contract contains the entire agreement of the parties and cannot be changed except by their written agreement. Addenda which are a part of this contract are (check all applicable boxes):

- ❑ Third Party Financing Addendum
- ❑ Seller Financing Addendum
- ❑ Addendum for Property Subject to Mandatory Membership in a Property Owners Association
- ❑ Buyer's Temporary Residential Lease
- ❑ Loan Assumption Addendum
- ❑ Addendum for Sale of Other Property by Buyer
- ❑ Addendum for Reservation of Oil, Gas and Other Minerals
- ❑ Addendum for "Back-Up" Contract
- ❑ Addendum Concerning Right to Terminate Due to Lender's Appraisal
- ❑ Addendum for Coastal Area Property
- ❑ Environmental Assessment, Threatened or Endangered Species and Wetlands Addendum
- ❑ Seller's Temporary Residential Lease
- ❑ Short Sale Addendum
- ❑ Addendum for Property Located Seaward of the Gulf Intracoastal Waterway
- ❑ Addendum for Property in a Propane Gas System Service Area
- ❑ Other (list): _____

23. TERMINATION OPTION: For nominal consideration, the receipt of which is hereby acknowledged by Seller, and Buyer's agreement to pay Seller $_____ (Option Fee) within 3 days after the Effective Date of this contract, Seller grants Buyer the unrestricted right to terminate this contract by giving notice of termination to Seller within _____ days after the Effective Date of this contract (Option Period). Notices under this paragraph must be given by 5:00 p.m. (local time where the Property is located) by the date specified. If no dollar amount is stated as the Option Fee or if Buyer fails to pay the Option Fee to Seller within the time prescribed, this paragraph will not be a part of this contract and Buyer shall not have the unrestricted right to terminate this contract. If Buyer gives notice of termination within the time prescribed, the Option Fee will not be refunded; however, any earnest money will be refunded to Buyer. The Option Fee ❑will ❑will not be credited to the Sales Price at closing. **Time is of the essence for this paragraph and strict compliance with the time for performance is required.**

24. CONSULT AN ATTORNEY BEFORE SIGNING: TREC rules prohibit real estate license holders from giving legal advice. READ THIS CONTRACT CAREFULLY.

Buyer's Attorney is:		Seller's Attorney is:	
Phone:	( )	Phone:	( )
Fax:	( )	Fax:	( )
E-mail:		E-mail:	

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BROKER INFORMATION
(Print name(s) only. Do not sign)

Other Broker Firm | License No.

represents ❑ Buyer only as Buyer's agent
❑ Seller as Listing Broker's subagent

Associate's Name | License No.

Associate's Email Address | Phone

Licensed Supervisor of Associate | License No.

Other Broker's Address | Phone

City | State | Zip

Listing Broker Firm | License No.

represents ❑ Seller and Buyer as an intermediary
❑ Seller only as Seller's agent

Listing Associate's Name | License No.

Listing Associate's Email Address | Phone

Licensed Supervisor of Listing Associate | License No.

Listing Broker's Office Address | Phone

City | State | Zip

Selling Associate's Name | License No.

Selling Associate's Email Address | Phone

Licensed Supervisor of Selling Associate | License No.

Selling Associate's Office Address

City | State | Zip

[~~Listing Broker has agreed to pay Other Broker _____ of the total sales price when the Listing Broker's fee is received. Escrow agent is authorized and directed to pay Other Broker from Listing Broker's fee at closing.~~]

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OPTION FEE RECEIPT

Receipt of $_____ (Option Fee) in the form of _____
is acknowledged.

Seller or Listing Broker _____ Date

EARNEST MONEY RECEIPT

Receipt of $_____ Earnest Money in the form of _____
is acknowledged.

Escrow Agent _____ Received by _____ Email Address _____ Date/Time

Address _____ Phone

City _____ State _____ Zip _____ Fax

CONTRACT RECEIPT

Receipt of the Contract is acknowledged.

Escrow Agent _____ Received by _____ Email Address _____ Date

Address _____ Phone

City _____ State _____ Zip _____ Fax

ADDITIONAL EARNEST MONEY RECEIPT

Receipt of $_____ additional Earnest Money in the form of _____
is acknowledged.

Escrow Agent _____ Received by _____ Email Address _____ Date/Time

Address _____ Phone

City _____ State _____ Zip _____ Fax

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PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC) 019 [2-12-18]

NEW HOME CONTRACT

(Completed Construction)

NOTICE: Not For Use For Condominium Transactions or Closings Prior to Completion of Construction

EQUAL HOUSING OPPORTUNITY

1. PARTIES: The parties to this contract are _____ (Seller) and _____ (Buyer). Seller agrees to sell and convey to Buyer and Buyer agrees to buy from Seller the Property defined below.

2. PROPERTY: Lot _____, Block _____, _____ Addition, City of _____, County of _____, Texas, known as _____ (address/zip code), or as described on attached exhibit, together with: (i) improvements, fixtures and all other property located thereon; and (ii) all rights, privileges and appurtenances thereto, including but not limited to: permits, easements, and cooperative and association memberships. All property sold by this contract is called the [“]Property[”] (Property).

RESERVATIONS: Any reservation for oil, gas, or other minerals, water, timber, or other interests is made in accordance with an attached addendum.

3. SALES PRICE:

A. Cash portion of Sales Price payable by Buyer at closing ..... $ _____

B. Sum of all financing described in the attached: ❑ Third Party Financing Addendum, ❑ Loan Assumption Addendum, ❑ Seller Financing Addendum ..... $ _____

C. Sales Price (Sum of A and B) ..... $ _____

4. LEASES:

A. The Property is subject to the following types of leases to which the Seller is a party, including any addendum, amendment, or move-in condition form (Leases):

❑ Residential Leases

❑ Oil and Gas or Mineral Leases

❑ Leases of Fixtures (for example, solar panels, propane tanks, water softener)

❑ Other: _____

B. Delivery of Leases (check one box only):

❑ (1) Buyer has received a copy of all Leases.

❑ (2) Buyer has not received a copy of all Leases. Seller shall provide a copy of the Leases within 3 days after the Effective Date. Buyer may terminate the contract within ____ days after the date the Buyer receives the Leases and the earnest money shall be refunded to Buyer.

C. After the Effective Date, Seller may not execute any new lease or amend any Lease without Buyer's written consent.

~~[**LICENSE HOLDER DISCLOSURE:** Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as trustee or of which the license holder or the license holder's spouse parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable: _____ _____.]~~

5. EARNEST MONEY: Within 3 days after the Effective Date, Buyer must deliver $ _____ as earnest money to _____, as escrow agent, at _____ (address). Buyer shall deliver additional earnest money of $ _____ to escrow agent within _____ days after the Effective Date of this contract. If Buyer fails to deliver the earnest money within the time required, Seller may terminate this contract or exercise Seller's remedies under Paragraph 15, or both, by providing notice to Buyer before Buyer delivers the earnest money. If the last day to deliver the earnest money falls on a Saturday, Sunday, or legal holiday, the time to deliver the earnest money is extended until the end of the next day that is not a Saturday, Sunday, or legal holiday. **Time is of the essence for this paragraph.**

6. TITLE POLICY AND SURVEY:

A. TITLE POLICY: Seller shall furnish to Buyer at ❑Seller's ❑Buyer's expense an owner policy of title insurance (Title Policy) issued by _____ (Title Company) in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances) and the following exceptions:
(1) Restrictive covenants common to the platted subdivision in which the Property is located.
(2) The standard printed exception for standby fees, taxes and assessments.
(3) Liens created as part of the financing described in Paragraph 3.

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(4) Utility easements created by the dedication deed or plat of the subdivision in which the Property is located.
(5) Reservations or exceptions otherwise permitted by this contract or as may be approved by Buyer in writing.
(6) The standard printed exception as to marital rights.
(7) The standard printed exception as to waters, tidelands, beaches, streams, and related matters.
(8) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvement:

❑(i) will not be amended or deleted from the title policy; or

❑(ii) will be amended to read, "shortages in area" at the expense of ❑Buyer ❑Seller.

(9) The exception or exclusion regarding minerals approved by the Texas Department of Insurance.

B. COMMITMENT: Within 20 days after the Title Company receives a copy of this contract, Seller shall furnish to Buyer a commitment for title insurance (Commitment) and, at Buyer's expense, legible copies of restrictive covenants and documents evidencing exceptions in the Commitment (Exception Documents) other than the standard printed exceptions. Seller authorizes the Title Company to deliver the Commitment and Exception Documents to Buyer at Buyer's address shown in Paragraph 21. If the Commitment and Exception Documents are not delivered to Buyer within the specified time, the time for delivery will be automatically extended up to 15 days or 3 days before the Closing Date, whichever is earlier. If the Commitment and Exception Documents are not delivered within the time required, Buyer may terminate this contract and the earnest money will be refunded to Buyer.

C. SURVEY: The survey must be made by a registered professional land surveyor acceptable to the Title Company and Buyer's lender(s). (Check one box only)

❑ (1) Within _____ days after the Effective Date of this contract, Seller shall furnish to Buyer and Title Company Seller's existing survey of the Property and a Residential Real Property Affidavit promulgated by the Texas Department of Insurance (T-47 Affidavit). **If Seller fails to furnish the existing survey or affidavit within the time prescribed, Buyer shall obtain a new survey at Seller's expense no later than 3 days prior to Closing Date.** If the existing survey or affidavit is not acceptable to Title Company or Buyer's lender(s), Buyer shall obtain a new survey at ❑ Seller's ❑ Buyer's expense no later than 3 days prior to Closing Date.

❑ (2) Within _____ days after the Effective Date of this contract, Buyer shall obtain a new survey at Buyer's expense. Buyer is deemed to receive the survey on the date of actual receipt or the date specified in this paragraph, whichever is earlier.

❑ (3) Within _____ days after the Effective Date of this contract, Seller, at Seller's expense shall furnish a new survey to Buyer.

D. OBJECTIONS: Buyer may object in writing to defects, exceptions, or encumbrances to title: disclosed on the survey other than items 6A(1) through (7) above; disclosed in the Commitment other than items 6A(1) through (9) above; or which prohibit the following use or activity: _____
_____.
Buyer must object the earlier of (i) the Closing Date or (ii) _____ days after Buyer receives the Commitment, Exception Documents, and the survey. Buyer's failure to object within the time allowed will constitute a waiver of Buyer's right to object; except that the requirements in Schedule C of the Commitment are not waived by Buyer. Provided Seller is not obligated to incur any expense, Seller shall cure any timely objections of Buyer or any third party lender within 15 days after Seller receives the objections (Cure Period) and the Closing Date will be extended as necessary. If objections are not cured within the Cure Period, Buyer may, by delivering notice to Seller within 5 days after the end of the Cure Period: (i) terminate this contract and the earnest money will be refunded to Buyer; or (ii) waive the objections. If Buyer does not terminate within the time required, Buyer shall be deemed to have waived the objections. If the Commitment or Survey is revised or any new Exception Document(s) is delivered, Buyer may object to any new matter revealed in the revised Commitment or Survey or new Exception Document(s) within the same time stated in this paragraph to make objections beginning when the revised Commitment, Survey, or Exception Document(s) is delivered to Buyer.

E. TITLE NOTICES:

(1) ABSTRACT OR TITLE POLICY: Broker advises Buyer to have an abstract of title covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a Title Policy. If a Title Policy is furnished, the Commitment should be promptly reviewed by an attorney of Buyer's choice due to the time limitations on Buyer's right to object.

(2) MEMBERSHIP IN PROPERTY OWNERS ASSOCIATION(S): The Property ❑is ❑is not subject to mandatory membership in a property owners association(s). If the Property is subject to mandatory membership in a property owners association(s), Seller notifies Buyer under §5.012, Texas Property Code, that, as a purchaser of property in the residential community identified in Paragraph 2A in which the Property is located, you are

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obligated to be a member of the property owners association(s). Restrictive covenants governing the use and occupancy of the Property and all dedicatory instruments governing the establishment, maintenance, and operation of this residential community have been or will be recorded in the Real Property Records of the county in which the Property is located. Copies of the restrictive covenants and dedicatory instruments may be obtained from the county clerk. **You are obligated to pay assessments to the property owners association(s). The amount of the assessments is subject to change. Your failure to pay the assessments could result in enforcement of the association's lien on and the foreclosure of the Property.**

Section 207.003, Property Code, entitles an owner to receive copies of any document that governs the establishment, maintenance, or operation of a subdivision, including, but not limited to, restrictions, bylaws, rules and regulations, and a resale certificate from a property owners' association. A resale certificate contains information including, but not limited to, statements specifying the amount and frequency of regular assessments and the style and cause number of lawsuits to which the property owners' association is a party, other than lawsuits relating to unpaid ad valorem taxes of an individual member of the association. These documents must be made available to you by the property owners' association or the association's agent on your request.

If Buyer is concerned about these matters, the TREC promulgated Addendum for Property Subject to Mandatory Membership in a Property Owners Association should be used.

(3) STATUTORY TAX DISTRICTS: If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fee of the district prior to final execution of this contract.

(4) TIDE WATERS: If the Property abuts the tidally influenced waters of the state, §33.135, Texas Natural Resources Code, requires a notice regarding coastal area property to be included in the contract. An addendum containing the notice promulgated by TREC or required by the parties must be used.

(5) ANNEXATION: If the Property is located outside the limits of a municipality, Seller notifies Buyer under §5.011, Texas Property Code, that the Property may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Property is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Property for further information.

(6) PROPERTY LOCATED IN A CERTIFICATED SERVICE AREA OF A UTILITY SERVICE PROVIDER: Notice required by §13.257, Water Code: The real property, described in Paragraph 2, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned Buyer hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in Paragraph 2 or at closing of purchase of the real property.

(7) PUBLIC IMPROVEMENT DISTRICTS: If the Property is in a public improvement district, §5.014, Property Code, requires Seller to notify Buyer as follows: As a purchaser of this parcel of real property you are obligated to pay an assessment to a municipality or county for an improvement project undertaken by a public improvement district under Chapter 372, Local Government Code. The assessment may be due annually or in periodic installments. More information concerning the amount of the assessment and the due dates of that assessment may be obtained from the municipality or county levying the assessment. The amount of the assessments is subject to change. Your failure to pay the assessments could result in a lien on and the foreclosure of your property.

(8) TRANSFER FEES: If the Property is subject to a private transfer fee obligation, §5.205, Property Code, requires Seller to notify Buyer as follows: The private transfer fee obligation may be governed by Chapter 5, Subchapter G of the Texas Property Code.

(9) PROPANE GAS SYSTEM SERVICE AREA: If the Property is located in a propane gas system service area owned by a distribution system retailer, Seller must give Buyer written notice as required by §141.010, Texas Utilities Code. An addendum containing the notice approved by TREC or required by the parties should be used.

(10) NOTICE OF WATER LEVEL FLUCTUATIONS: If the Property adjoins an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's

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normal operating level, Seller hereby notifies Buyer: "The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including as a result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions."

7. PROPERTY CONDITION:

A. ACCESS, INSPECTIONS AND UTILITIES: Seller shall permit Buyer and Buyer's agents access to the Property at reasonable times. Buyer may have the Property inspected by inspectors selected by Buyer and licensed by TREC or otherwise permitted by law to make inspections. Seller at Seller's expense shall immediately cause existing utilities to be turned on and shall keep the utilities on during the time this contract is in effect.

B. ACCEPTANCE OF PROPERTY CONDITION: "As Is" means the present condition of the Property with any and all defects and without warranty except for the warranties of title and the warranties in this contract. Buyer's agreement to accept the Property As Is under Paragraph 7B (1) or (2) does not preclude Buyer from inspecting the Property under Paragraph 7A, from negotiating repairs or treatments in a subsequent amendment, or from terminating this contract during the Option Period, if any.

(Check one box only)

❑ (1)Buyer accepts the Property As Is.

❑ (2)Buyer accepts the Property As Is provided Seller, at Seller's expense, shall complete the following specific repairs and treatments:_____

_____

(Do not insert general phrases, such as "subject to inspections," that do not identify specific repairs and treatments.)

C. WARRANTIES: Except as expressly set forth in this contract, a separate writing, or provided by law, Seller makes no other express warranties. Seller shall assign to Buyer at closing all assignable manufacturer warranties.

D. INSULATION: As required by Federal Trade Commission Regulations, the information relating to the insulation installed or to be installed in the Improvements at the Property is: (check only one box below)

❑ (1) as shown in the attached specifications.

❑ (2) as follows:

(a) Exterior walls of improved living areas: insulated with _____ insulation to a thickness of _____ inches which yields an R-Value of _____.

(b) Walls in other areas of the home: insulated with_____ insulation to a thickness of _____ inches which yields an R-Value of _____.

(c) Ceilings in improved living areas: insulated with_____ insulation to a thickness of _____ inches which yields an R-Value of _____.

(d) Floors of improved living areas not applied to a slab foundation: insulated with _____ _____insulation to a thickness of _____ inches which yields an R-Value of _____.

(e) Other insulated areas: insulated with _____insulation to a thickness of _____ inches which yields an R-Value of _____.

All stated R-Values are based on information provided by the manufacturer of the insulation.

E. LENDER REQUIRED REPAIRS AND TREATMENTS: Unless otherwise agreed in writing, neither party is obligated to pay for lender required repairs, which includes treatment for wood destroying insects. If the parties do not agree to pay for the lender required repairs or treatments, this contract will terminate and the earnest money will be refunded to Buyer. If the cost of lender required repairs and treatments exceeds 5% of the Sales Price, Buyer may terminate this contract and the earnest money will be refunded to Buyer.

F. COMPLETION OF REPAIRS, TREATMENTS, AND IMPROVEMENTS: Unless otherwise agreed in writing: (i) Seller shall complete all agreed repairs, treatments, and improvements (Work) prior to the Closing Date; and (ii) all required permits must be obtained, and Work must be performed by persons who are licensed to provide such Work or, if no license is required by law, are commercially engaged in the trade of providing such Work. At Buyer's election, any transferable warranties received by Seller with respect to the Work will be transferred to Buyer at Buyer's expense. If Seller fails to complete any agreed Work prior to the Closing Date, Buyer may exercise remedies under Paragraph 15 or extend the Closing Date up to 5 days if necessary for Seller to complete Work.

G. ENVIRONMENTAL MATTERS: Buyer is advised that the presence of wetlands, toxic substances, including asbestos and wastes or other environmental hazards or the presence of a threatened or endangered species or its habitat may affect Buyer's intended use of the Property. If Buyer is concerned about these matters, an addendum promulgated by TREC or required by the parties should be used.

H. SELLER'S DISCLOSURE: Except as otherwise disclosed in this contract, Seller has no knowledge of the following:

(1) any flooding of the Property which has had a material adverse effect on the use of the

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Property;
(2) any pending or threatened litigation, condemnation, or special assessment affecting the Property;
(3) any environmental hazards that materially and adversely affect the Property;
(4) any dumpsite, landfill, or underground tanks or containers now or previously located on the Property;
(5) any wetlands, as defined by federal or state law or regulation, affecting the Property; or
(6) any threatened or endangered species or their habitat affecting the Property.

I. RESIDENTIAL SERVICE CONTRACTS: Buyer may purchase a residential service contract from a residential service company licensed by TREC. If Buyer purchases a residential service contract, Seller shall reimburse Buyer at closing for the cost of the residential service contract in an amount not exceeding $_____. Buyer should review any residential service contract for the scope of coverage, exclusions and limitations. **The purchase of a residential service contract is optional. Similar coverage may be purchased from various companies authorized to do business in Texas.**

8. LICENSE HOLDERS: [BROKERS' FEES:]

A. All obligations of the parties for payment of brokers' fees are contained in separate written agreements.

B. Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as a trustee or of which the license holder or the license holder's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable: _____ _____.

9. CLOSING:

A. The closing of the sale will be on or before _____, 20_____, or within 7 days after objections made under Paragraph 6D have been cured or waived, whichever date is later (Closing Date). If either party fails to close the sale by the Closing Date, the non-defaulting party may exercise the remedies contained in Paragraph 15.

B. At closing:
(1) Seller shall execute and deliver a general warranty deed conveying title to the Property to Buyer and showing no additional exceptions to those permitted in Paragraph 6 and furnish tax statements or certificates showing no delinquent taxes on the Property.
(2) Buyer shall pay the Sales Price in good funds acceptable to the escrow agent.
(3) Seller and Buyer shall execute and deliver any notices, statements, certificates, affidavits, releases, loan documents and other documents reasonably required for the closing of the sale and the issuance of the Title Policy.
(4) There will be no liens, assessments, or security interests against the Property which will not be satisfied out of the sales proceeds unless securing the payment of any loans assumed by Buyer and assumed loans will not be in default.

10. POSSESSION:

A. Buyer's Possession: Seller shall deliver to Buyer possession of the Property in its present or required condition, ordinary wear and tear excepted: ❑ upon closing and funding ❑ according to a temporary residential lease form promulgated by TREC or other written lease required by the parties. Any possession by Buyer prior to closing or by Seller after closing which is not authorized by a written lease will establish a tenancy at sufferance relationship between the parties. **Consult your insurance agent prior to change of ownership and possession because insurance coverage may be limited or terminated. The absence of a written lease or appropriate insurance coverage may expose the parties to economic loss.**

B. [Leases:] After the Effective Date, Seller may not [execute any lease (including but not limited to mineral leases) or] convey any interest in the Property without Buyer's written consent.

11. SPECIAL PROVISIONS: (Insert only factual statements and business details applicable to the sale. TREC rules prohibit license holders from adding factual statements or business details for which a contract addendum, lease or other form has been promulgated by TREC for mandatory use.)

12. SETTLEMENT AND OTHER EXPENSES:

A. The following expenses must be paid at or prior to closing:
(1) Expenses payable by Seller (Seller's Expenses):
(a) Releases of existing liens, including prepayment penalties and recording fees; release of Seller's loan liability; tax statements or certificates; preparation of deed; one-half of escrow fee; and other expenses payable by Seller under this contract.
(b) Seller shall also pay an amount not to exceed $ _____ to be applied in the following order: Buyer's Expenses which Buyer is prohibited from paying by FHA, VA, Texas Veterans Land Board or other governmental loan programs, and then to other Buyer's Expenses as allowed by the lender.
(2) Expenses payable by Buyer (Buyer's Expenses): Appraisal fees; loan application fees; origination charges; credit reports; preparation of loan documents; interest on the notes from date of disbursement to one month prior to dates of first monthly payments; recording fees; copies of easements and restrictions; loan title policy with endorsements required by

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lender; loan-related inspection fees; photos; amortization schedules; one-half of escrow fee; all prepaid items, including required premiums for flood and hazard insurance, reserve deposits for insurance, ad valorem taxes and special governmental assessments; final compliance inspection; courier fee; repair inspection; underwriting fee; wire transfer fee; expenses incident to any loan; Private Mortgage Insurance Premium (PMI), VA Loan Funding Fee, or FHA Mortgage Insurance Premium (MIP) as required by the lender; and other expenses payable by Buyer under this contract.

B. If any expense exceeds an amount expressly stated in this contract for such expense to be paid by a party, that party may terminate this contract unless the other party agrees to pay such excess. Buyer may not pay charges and fees expressly prohibited by FHA, VA, Texas Veterans Land Board or other governmental loan program regulations.

13. PRORATIONS AND ROLLBACK TAXES:

A. PRORATIONS: Taxes for the current year, maintenance fees, assessments, dues and rents will be prorated through the Closing Date. The tax proration may be calculated taking into consideration any change in exemptions that will affect the current year's taxes. If taxes for the current year vary from the amount prorated at closing, the parties shall adjust the prorations when tax statements for the current year are available. If taxes are not paid at or prior to closing, Buyer will be obligated to pay taxes for the current year.

B. ROLLBACK TAXES: If additional taxes, penalties, or interest (Assessments) are imposed because of Seller's use or change in use of the Property prior to closing, the Assessments will be the obligation of Seller. Obligations imposed by this paragraph will survive closing.

14. CASUALTY LOSS: If any part of the Property is damaged or destroyed by fire or other casualty after the Effective Date of this contract, Seller shall restore the Property to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller fails to do so due to factors beyond Seller's control, Buyer may (a) terminate this contract and the earnest money will be refunded to Buyer (b) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (c) accept the Property in its damaged condition with an assignment of insurance proceeds, if permitted by Seller's insurance carrier, and receive credit from Seller at closing in the amount of the deductible under the insurance policy. Seller's obligations under this paragraph are independent of any other obligations of Seller under this contract.

15. DEFAULT: If Buyer fails to comply with this contract, Buyer will be in default, and Seller may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money as liquidated damages, thereby releasing both parties from this contract. If Seller fails to comply with this contract Seller will be in default and Buyer may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money, thereby releasing both parties from this contract.

16. MEDIATION: It is the policy of the State of Texas to encourage resolution of disputes through alternative dispute resolution procedures such as mediation. Subject to applicable law, any dispute between Seller and Buyer related to this contract which is not resolved through informal discussion will be submitted to a mutually acceptable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

17. ATTORNEY'S FEES: A Buyer, Seller, Listing Broker, Other Broker, or escrow agent who prevails in any legal proceeding related to this contract is entitled to recover reasonable attorney's fees and all costs of such proceeding.

18. ESCROW:

A. ESCROW: The escrow agent is not (i) a party to this contract and does not have liability for the performance or nonperformance of any party to this contract, (ii) liable for interest on the earnest money and (iii) liable for the loss of any earnest money caused by the failure of any financial institution in which the earnest money has been deposited unless the financial institution is acting as escrow agent.

B. EXPENSES: At closing, the earnest money must be applied first to any cash down payment, then to Buyer's Expenses and any excess refunded to Buyer. If no closing occurs, escrow agent may: (i) require a written release of liability of the escrow agent from all parties, (ii) require payment of unpaid expenses incurred on behalf of a party, and (iii) only deduct from the earnest money the amount of unpaid expenses incurred on behalf of the party receiving the earnest money.

C. DEMAND: Upon termination of this contract, either party or the escrow agent may send a release of earnest money to each party and the parties shall execute counterparts of the release and deliver same to the escrow agent. If either party fails to execute the release, either party may make a written demand to the escrow agent for the earnest money. If only one party makes written demand for the earnest money, escrow agent shall promptly provide a copy of the demand to the other party. If escrow agent does not receive written objection to the demand from the other party within 15 days, escrow agent may disburse the earnest money to the party making demand reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and escrow agent may pay the same to the creditors. If escrow agent complies with the provisions of this paragraph, each party hereby

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releases escrow agent from all adverse claims related to the disbursal of the earnest money.

D. DAMAGES: Any party who wrongfully fails or refuses to sign a release acceptable to the escrow agent within 7 days of receipt of the request will be liable to the other party for (i) damages; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.

E. NOTICES: Escrow agent's notices will be effective when sent in compliance with Paragraph 21. Notice of objection to the demand will be deemed effective upon receipt by escrow agent.

19. REPRESENTATIONS: All covenants, representations and warranties in this contract survive closing. If any representation of Seller in this contract is untrue on the Closing Date, Seller will be in default. Unless expressly prohibited by written agreement, Seller may continue to show the Property and receive, negotiate and accept back up offers.

20. FEDERAL TAX REQUIREMENTS: If Seller is a "foreign person," as defined by Internal Revenue Code and its regulations, or if Seller fails to deliver an affidavit or a certificate of non-foreign status to Buyer that Seller is not a "foreign person," then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax forms. Internal Revenue Service regulations require filing written reports if currency in excess of specified amounts is received in the transaction.

21. NOTICES: All notices from one party to the other must be in writing and are effective when mailed to, hand-delivered at, or transmitted by fax or electronic transmission as follows:

To Buyer at:	**To Seller at:**
_____	_____
Phone: ( ) _____	Phone: ( ) _____
Fax: ( ) _____	Fax: ( ) _____
E-mail: _____	E-mail: _____

22. AGREEMENT OF PARTIES: This contract contains the entire agreement of the parties and cannot be changed except by their written agreement. Addenda which are a part of this contract are (check all applicable boxes):

- ❑ Third Party Financing Addendum
- ❑ Seller Financing Addendum
- ❑ Addendum for Property Subject to Mandatory Membership in a Property Owners Association
- ❑ Buyer's Temporary Residential Lease
- ❑ Loan Assumption Addendum
- ❑ Addendum for Sale of Other Property by Buyer
- ❑ Addendum for Reservation of Oil, Gas and Other Minerals
- ❑ Addendum for "Back-Up" Contract
- ❑ Addendum Concerning Right to Terminate Due to Lender's Appraisal
- ❑ Addendum for Coastal Area Property
- ❑ Environmental Assessment, Threatened or Endangered Species and Wetlands Addendum
- ❑ Seller's Temporary Residential Lease
- ❑ Short Sale Addendum
- ❑ Addendum for Property Located Seaward of the Gulf Intracoastal Waterway
- ❑ Addendum for Property in a Propane Gas System Service Area
- ❑ Other (list): _____

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23. TERMINATION OPTION: For nominal consideration, the receipt of which is hereby acknowledged by Seller, and Buyer's agreement to pay Seller $_____ (Option Fee) within 3 days after the Effective Date of this contract, Seller grants Buyer the unrestricted right to terminate this contract by giving notice of termination to Seller within _____ days after the Effective Date of this contract (Option Period). Notices under this paragraph must be given by 5:00 p.m. (local time where the Property is located) by the date specified. If no dollar amount is stated as the Option Fee or if Buyer fails to pay the Option Fee to Seller within the time prescribed, this paragraph will not be a part of this contract and Buyer shall not have the unrestricted right to terminate this contract. If Buyer gives notice of termination within the time prescribed, the Option Fee will not be refunded; however, any earnest money will be refunded to Buyer. The Option Fee ❑will ❑will not be credited to the Sales Price at closing. **Time is of the essence for this paragraph and strict compliance with the time for performance is required.**

24. CONSULT AN ATTORNEY BEFORE SIGNING: TREC rules prohibit real estate license holders

Buyer's Attorney is: _____	Seller's Attorney is: _____
_____	_____
Phone: ( ) _____	Phone: ( ) _____
Fax: ( ) _____	Fax: ( ) _____
E-mail: _____	E-mail: _____

EXECUTED the _____day of _____, 20____ (Effective Date).
(BROKER: FILL IN THE DATE OF FINAL ACCEPTANCE.)

This contract is subject to Chapter 27 of the Texas Property Code. The provisions of that chapter may affect your right to recover damages arising from a construction defect. If you have a complaint concerning a construction defect and that defect has not been corrected as may be required by law or by contract, you must provide the notice required by Chapter 27 of the Texas Property Code to the contractor by certified mail, return receipt requested, not later than the 60th day before the date you file suit to recover damages in a court of law or initiate arbitration. The notice must refer to Chapter 27 of the Texas Property Code and must describe the construction defect. If requested by the contractor, you must provide the contractor an opportunity to inspect and cure the defect as provided by Section 27.004 of the Texas Property Code.

_____
Buyer

_____
Buyer

_____
Seller

_____
Seller

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TREC TEXAS REAL ESTATE COMMISSION

The form of this contract has been approved by the Texas Real Estate Commission. TREC forms are intended for use only by trained real estate license holders. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, (512) 936-3000 (http://www.trec.texas.gov) TREC NO. 24-16 [24-15]. This form replaces TREC NO. 24-15 [24-14].

BROKER INFORMATION
(Print name(s) only. Do not sign)

Other Broker Firm License No.

represents ❑ Buyer only as Buyer's agent
❑ Seller as Listing Broker's subagent

Associate's Name License No.

Associate's Email Address Phone

Licensed Supervisor of Associate License No.

Other Broker's Address Phone

City State Zip

Listing Broker Firm License No.

represents ❑ Seller and Buyer as an intermediary
❑ Seller only as Seller's agent

Associate's Name License No.

Listing Associate's Email Address Phone

Licensed Supervisor of Listing Associate License No.

Listing Broker's Office Address Phone

City State Zip

Selling Associate's Name License No.

Selling Associate's Email Address Phone

Licensed Supervisor of Selling Associate License No.

Selling Associate's Office Address

City State Zip

~~[Listing Broker has agreed to pay Other Broker _____ of the total sales price when the Listing Broker's fee is received. Escrow agent is authorized and directed to pay Other Broker from Listing Broker's fee at closing.]~~

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OPTION FEE RECEIPT

Receipt of $_____ (Option Fee) in the form of _____
is acknowledged.

Seller or Listing Broker _____ Date

EARNEST MONEY RECEIPT

Receipt of $_____ Earnest Money in the form of _____
is acknowledged.

Escrow Agent _____ Received by _____ Email Address _____ Date/Time

Address _____ Phone

City _____ State _____ Zip _____ Fax

CONTRACT RECEIPT

Receipt of the Contract is acknowledged.

Escrow Agent _____ Received by _____ Email Address _____ Date

Address _____ Phone

City _____ State _____ Zip _____ Fax

ADDITIONAL EARNEST MONEY RECEIPT

Receipt of $_____ additional Earnest Money in the form of _____
is acknowledged.

Escrow Agent _____ Received by _____ Email Address _____ Date/Time

Address _____ Phone

City _____ State _____ Zip _____ Fax

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PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)

FARM AND RANCH CONTRACT

1-13-2019 [~~2-12-~~]

EQUAL HOUSING OPPORTUNITY

1. PARTIES: The parties to this contract are _____ (Seller) and _____ (Buyer). Seller agrees to sell and convey to Buyer and Buyer agrees to buy from Seller the Property defined below.

2. PROPERTY: The land, improvements, accessories and crops except for the exclusions and reservations, are collectively referred to as the [~~"~~]Property[~~"~~] (Property).

A. LAND: The land situated in the County of _____, Texas, described as follows: _____

_____

or as described on attached exhibit, also known as _____ (address/zip code), together with all rights, privileges, and appurtenances pertaining thereto, including but not limited to: water rights, claims, permits, strips and gores, easements, and cooperative or association memberships.

B. IMPROVEMENTS:

(1) FARM and RANCH IMPROVEMENTS: The following **permanently installed and built-in items**, if any: windmills, tanks, barns, pens, fences, gates, sheds, outbuildings, and corrals.

(2) RESIDENTIAL IMPROVEMENTS: The house, garage, and all other fixtures and improvements attached to the above-described real property, including without limitation, the following **permanently installed and built-in items,** if any: all equipment and appliances, valances, screens, shutters, awnings, wall-to-wall carpeting, mirrors, ceiling fans, attic fans, mail boxes, television antennas, mounts and brackets for televisions and speakers, heating and air-conditioning units, security and fire detection equipment, wiring, plumbing and lighting fixtures, chandeliers, water softener system, kitchen equipment, garage door openers, cleaning equipment, shrubbery, landscaping, outdoor cooking equipment, and all other property owned by Seller and attached to the above described real property.

C. ACCESSORIES:

(1) FARM AND RANCH ACCESSORIES: The following described related accessories: (check boxes of conveyed accessories) ❑ portable buildings ❑ hunting blinds ❑ game feeders ❑ livestock feeders and troughs ❑ irrigation equipment ❑ fuel tanks ❑ submersible pumps ❑ pressure tanks ❑ corrals ❑ gates ❑ chutes ❑ other: _____

_____

(2) RESIDENTIAL ACCESSORIES: The following described related accessories, if any: window air conditioning units, stove, fireplace screens, curtains and rods, blinds, window shades, draperies and rods, door keys, mailbox keys, above ground pool, swimming pool equipment and maintenance accessories, artificial fireplace logs, and controls for: (i) garages, (ii) entry gates, and (iii) other improvements and accessories.

D. CROPS: Unless otherwise agreed in writing, Seller has the right to harvest all growing crops until delivery of possession of the Property.

E. EXCLUSIONS: The following improvements, accessories, and crops will be retained by Seller and must be removed prior to delivery of possession: _____

_____.

F. RESERVATIONS: Any reservation for oil, gas, or other minerals, water, timber, or other interests is made in accordance with an attached addendum.

3. SALES PRICE:

A. Cash portion of Sales Price payable by Buyer at closing ..... $_____

B. Sum of all financing described in the attached: ❑ Third Party Financing Addendum, ❑ Loan Assumption Addendum, ❑ Seller Financing Addendum ... $_____

C. Sales Price (Sum of A and B) ..... $_____

D. The Sales Price ❑ will ❑ will not be adjusted based on the survey required by Paragraph 6C. If the Sales Price is adjusted, the Sales Price will be calculated on the basis of $ _____ per acre. If the Sales Price is adjusted by more than 10%, either party may terminate this contract by providing written notice to the other party within _____ days after the terminating party receives the survey. If neither party terminates this contract or if the variance is 10% or less, the adjustment will be made to the amount in ❑ 3A ❑ 3B ❑ proportionately to 3A and 3B.

4. LEASES:

A. The Property is subject to the following types of leases to which the Seller is a party, including any addendum, amendment, or move-in condition form (Leases):

❑ Residential Leases

❑ Oil and Gas or Mineral Leases

❑ Leases of Fixtures (for example, solar panels, propane tanks, water softener)

❑ Other: _____

B. Delivery of Leases (check one box only):

❑ (1) Buyer has received a copy of all Leases.

❑ (2) Buyer has not received a copy of all Leases. Seller shall provide a copy of the Leases within 3 days after the Effective Date. Buyer may terminate the contract within ____ days after the date the Buyer receives the Leases and the earnest money shall be refunded to Buyer.

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C. After the Effective Date, Seller may not execute any new lease or amend any Lease without Buyer's written consent.

[~~LICENSE HOLDER DISCLOSURE: Texas Law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as trustee or of which the license holder or the license holder's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable: _____ _____.~~]

5. EARNEST MONEY: Within 3 days after the Effective Date, Buyer must deliver $_____ as earnest money to, _____, as escrow agent, at _____ (address). Buyer shall deliver additional earnest money of $_____ to escrow agent within _____ days after the Effective Date of this contract. If Buyer fails to deliver the earnest money within the time required, Seller may terminate this contract or exercise Seller's remedies under Paragraph 15, or both, by providing notice to Buyer before Buyer delivers the earnest money. If the last day to deliver the earnest money falls on a Saturday, Sunday, or legal holiday, the time to deliver the earnest money is extended until the end of the next day that is not a Saturday, Sunday, or legal holiday. **Time is of the essence for this paragraph.**

6. TITLE POLICY AND SURVEY:

A. TITLE POLICY: Seller shall furnish to Buyer at ❑Seller's ❑Buyer's expense an owner policy of title insurance (Title Policy) issued by: _____ (Title Company) in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances) and the following exceptions:
(1) The standard printed exception for standby fees, taxes and assessments.
(2) Liens created as part of the financing described in Paragraph 3.
(3) Reservations or exceptions otherwise permitted by this contract or as may be approved by Buyer in writing.
(4) The standard printed exception as to marital rights.
(5) The standard printed exception as to waters, tidelands, beaches, streams, and related matters.
(6) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements:
❑(i) will not be amended or deleted from the title policy; or
❑(ii) will be amended to read, "shortages in area" at the expense of ❑Buyer ❑Seller.
(7) The exception or exclusion regarding minerals approved by the Texas Department of Insurance.

B. COMMITMENT: Within 20 days after the Title Company receives a copy of this contract, Seller shall furnish to Buyer a commitment for title insurance (Commitment) and, at Buyer's expense, legible copies of restrictive covenants and documents evidencing exceptions in the Commitment (Exception Documents) other than the standard printed exceptions. Seller authorizes the Title Company to deliver the Commitment and Exception Documents to Buyer at Buyer's address shown in Paragraph 21. If the Commitment and Exception Documents are not delivered to Buyer within the specified time, the time for delivery will be automatically extended up to 15 days or 3 days before the Closing Date, whichever is earlier. If the Commitment and Exception Documents are not delivered within the time required, Buyer may terminate this contract and the earnest money will be refunded to Buyer.

C. SURVEY: The survey must be made by a registered professional land surveyor acceptable to the Title Company and Buyer's lender(s). (Check one box only):

❑ (1) Within _____ days after the Effective Date of this contract, Seller shall furnish to Buyer and Title Company Seller's existing survey of the Property and a Residential Real Property Affidavit promulgated by the Texas Department of Insurance (T-47 Affidavit). **If Seller fails to furnish the existing survey or affidavit within the time prescribed, Buyer shall obtain a new survey at Seller's expense no later than 3 days prior to Closing Date.** The existing survey ❑ will ❑ will not be recertified to a date subsequent to the Effective Date of this contract at the expense of ❑ Buyer ❑ Seller. If the existing survey is not approved by the Title Company or Buyer's lender(s), a new survey will be obtained at the expense of ❑ Buyer ❑ Seller no later than 3 days prior to Closing Date.

❑ (2) Within _____ days after the Effective Date of this contract, Buyer shall obtain a new survey at Buyer's expense. Buyer is deemed to receive the survey on the date of actual receipt or the date specified in this paragraph, whichever is earlier.

❑ (3) Within _____ days after the Effective Date of this contract, Seller, at Seller's expense shall furnish a new survey to Buyer.

❑ (4) No survey is required.

D. OBJECTIONS: Buyer may object in writing to (i) defects, exceptions, or encumbrances to title disclosed on the survey other than items 6A(1) through (5) above; or disclosed in the Commitment other than items 6A(1) through (7) above; (ii) any portion of the Property lying in a special flood hazard area (Zone V or A) as shown on the current Federal Emergency Management Agency map; or (iii) any exceptions which prohibit the following use or activity:
_____
_____.

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Buyer must object the earlier of (i) the Closing Date or (ii) _____ days after Buyer receives the Commitment, Exception Documents, and the survey. Buyer's failure to object within the time allowed will constitute a waiver of Buyer's right to object; except that the requirements in Schedule C of the Commitment are not waived by Buyer. Provided Seller is not obligated to incur any expense, Seller shall cure any timely objections of Buyer or any third party lender within 15 days after Seller receives the objections (Cure Period) and the Closing Date will be extended as necessary. If objections are not cured within the Cure Period, Buyer may, by delivering notice to Seller within 5 days after the end of the Cure Period: (i) terminate this contract and the earnest money will be refunded to Buyer; or (ii) waive the objections. If Buyer does not terminate within the time required, Buyer shall be deemed to have waived the objections. If the Commitment or Survey is revised or any new Exception Document(s) is delivered, Buyer may object to any new matter revealed in the revised Commitment or Survey or new Exception Document(s) within the same time stated in this paragraph to make objections beginning when the revised Commitment, Survey, or Exception Document(s) is delivered to Buyer.

E. EXCEPTION DOCUMENTS: Prior to the execution of the contract, Seller has provided Buyer with copies of the Exception Documents listed below or on the attached exhibit. Matters reflected in the Exception Documents listed below or on the attached exhibit will be permitted exceptions in the Title Policy and will not be a basis for objection to title:

Document	Date	Recording Reference

F. SURFACE LEASES: Prior to the execution of the contract, Seller has provided Buyer with copies of written leases and given notice of oral leases (Leases) listed below or on the attached exhibit. The following Leases will be permitted exceptions in the Title Policy and will not be a basis for objection to title: _____

_____

G. TITLE NOTICES:

(1) ABSTRACT OR TITLE POLICY: Broker advises Buyer to have an abstract of title covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a Title Policy. If a Title Policy is furnished, the Commitment should be promptly reviewed by an attorney of Buyer's choice due to the time limitations on Buyer's right to object.

(2) STATUTORY TAX DISTRICTS: If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fee of the district prior to final execution of this contract.

(3) TIDE WATERS: If the Property abuts the tidally influenced waters of the state, §33.135, Texas Natural Resources Code, requires a notice regarding coastal area property to be included in the contract. An addendum containing the notice promulgated by TREC or required by the parties must be used.

(4) ANNEXATION: If the Property is located outside the limits of a municipality, Seller notifies Buyer under §5.011, Texas Property Code, that the Property may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Property is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Property for further information.

(5) PROPERTY LOCATED IN A CERTIFICATED SERVICE AREA OF A UTILITY SERVICE PROVIDER: Notice required by §13.257, Water Code: The real property, described in Paragraph 2, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned Buyer hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in Paragraph 2 or at closing of purchase of the real property.

(6) PUBLIC IMPROVEMENT DISTRICTS: If the Property is in a public improvement district, §5.014, Property Code, requires Seller to notify Buyer as follows: As a purchaser of this parcel of real property you are obligated to pay an assessment to a municipality or county for an improvement project undertaken by a public improvement district under Chapter 372,

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Local Government Code. The assessment may be due annually or in periodic installments. More information concerning the amount of the assessment and the due dates of that assessment may be obtained from the municipality or county levying the assessment. The amount of the assessments is subject to change. Your failure to pay the assessments could result in a lien on and the foreclosure of your property.

(7) TEXAS AGRICULTURAL DEVELOPMENT DISTRICT: The Property ❑ is ❑ is not located in a Texas Agricultural Development District. For additional information contact the Texas Department of Agriculture

(8) TRANSFER FEES: If the Property is subject to a private transfer fee obligation, §5.205, Property Code, requires Seller to notify Buyer as follows: The private transfer fee obligation may be governed by Chapter 5, Subchapter G of the Texas Property Code.

(9) PROPANE GAS SYSTEM SERVICE AREA: If the Property is located in a propane gas system service area owned by a distribution system retailer, Seller must give Buyer written notice as required by §141.010, Texas Utilities Code. An addendum containing the notice approved by TREC or required by the parties should be used.

(10) NOTICE OF WATER LEVEL FLUCTUATIONS: If the Property adjoins an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, Seller hereby notifies Buyer: "The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including as a result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions."

7. PROPERTY CONDITION:

A. ACCESS, INSPECTIONS AND UTILITIES: Seller shall permit Buyer and Buyer's agents access to the Property at reasonable times. Buyer may have the Property inspected by inspectors selected by Buyer and licensed by TREC or otherwise permitted by law to make inspections. Any hydrostatic testing must be separately authorized by Seller in writing. Seller at Seller's expense shall immediately cause existing utilities to be turned on and shall keep the utilities on during the time this contract is in effect .

NOTICE: Buyer should determine the availability of utilities to the Property suitable to satisfy Buyer's needs.

B. SELLER'S DISCLOSURE NOTICE PURSUANT TO §5.008, TEXAS PROPERTY CODE (Notice): (Check one box only)

❑ (1) Buyer has received the Notice

❑ (2) Buyer has not received the Notice. Within _____ days after the Effective Date of this contract, Seller shall deliver the Notice to Buyer. If Buyer does not receive the Notice, Buyer may terminate this contract at any time prior to the closing and the earnest money will be refunded to Buyer. If Seller delivers the Notice, Buyer may terminate this contract for any reason within 7 days after Buyer receives the Notice or prior to the closing, whichever first occurs, and the earnest money will be refunded to Buyer.

❑ (3) The Texas Property Code does not require this Seller to furnish the Notice.

C. SELLER'S DISCLOSURE OF LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS is required by Federal law for a residential dwelling constructed prior to 1978.

D. ACCEPTANCE OF PROPERTY CONDITION: "As Is" means the present condition of the Property with any and all defects and without warranty except for the warranties of title and the warranties in this contract. Buyer's agreement to accept the Property As Is under Paragraph 7D (1) or (2) does not preclude Buyer from inspecting the Property under Paragraph 7A, from negotiating repairs or treatments in a subsequent amendment, or from terminating this contract during the Option Period, if any. (Check one box only)

❑ (1) Buyer accepts the Property As Is.

❑ (2) Buyer accepts the Property As Is provided Seller, at Seller's expense, shall complete the following specific repairs and treatments: _____

_____.

(Do not insert general phrases, such as "subject to inspections," that do not identify specific repairs and treatments.)

E. COMPLETION OF REPAIRS: Unless otherwise agreed in writing: (i) Seller shall complete all agreed repairs and treatments prior to the Closing Date; and (ii) all required permits must be obtained, and repairs and treatments must be performed by persons who are licensed to provide such repairs or treatments or, if no license is required by law, are commercially engaged in the trade of providing such repairs or treatments. At Buyer's election, any transferable warranties received by Seller with respect to the repairs will be transferred to Buyer at Buyer's expense. If Seller fails to complete any agreed repairs prior to the Closing Date, Buyer may exercise remedies under Paragraph 15 or extend the Closing Date up to 5 days if necessary for Seller to complete repairs.

F. LENDER REQUIRED REPAIRS AND TREATMENTS: Unless otherwise agreed in writing, neither party is obligated to pay for lender required repairs, which includes treatment for wood destroying insects. If the parties do not agree to pay for the lender required repairs or treatments, this contract will terminate and the earnest money will be refunded to Buyer. If the cost of lender required repairs and treatments exceeds 5% of the Sales Price, Buyer may

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terminate this contract and the earnest money will be refunded to Buyer.

G. ENVIRONMENTAL MATTERS: Buyer is advised that the presence of wetlands, toxic substances, including asbestos and wastes or other environmental hazards, or the presence of a threatened or endangered species or its habitat may affect Buyer's intended use of the Property. If Buyer is concerned about these matters, an addendum promulgated by TREC or required by the parties should be used.

H. SELLER'S DISCLOSURES: Except as otherwise disclosed in this contract, Seller has no knowledge of the following:
(1) any flooding of the Property which has had a material adverse effect on the use of the Property;
(2) any pending or threatened litigation, condemnation, or special assessment affecting the Property;
(3) any environmental hazards that materially and adversely affect the Property;
(4) any dumpsite, landfill, or underground tanks or containers now or previously located on the Property;
(5) any wetlands, as defined by federal or state law or regulation, affecting the Property; or
(6) any threatened or endangered species or their habitat affecting the Property.

I. RESIDENTIAL SERVICE CONTRACTS: Buyer may purchase a residential service contract from a residential service company licensed by TREC. If Buyer purchases a residential service contract, Seller shall reimburse Buyer at closing for the cost of the residential service contract in an amount not exceeding $_____. Buyer should review any residential service contract for the scope of coverage, exclusions and limitations. **The purchase of a residential service contract is optional. Similar coverage may be purchased from various companies authorized to do business in Texas.**

J. GOVERNMENT PROGRAMS: The Property is subject to the government programs listed below or on the attached exhibit:_____.
Seller shall provide Buyer with copies of all governmental program agreements. Any allocation or proration of payment under governmental programs is made by separate agreement between the parties which will survive closing.

8. LICENSE HOLDERS: [~~BROKERS' FEES:~~]

A. All obligations of the parties for payment of brokers' fees are contained in separate written agreements.

B. Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as a trustee or of which the license holder or the license holder's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable: _____
_____.

9. CLOSING:

A. The closing of the sale will be on or before _____, 20_____, or within 7 days after objections made under Paragraph 6D have been cured or waived, whichever date is later (Closing Date). If either party fails to close the sale by the Closing Date, the non-defaulting party may exercise the remedies contained in Paragraph 15.

B. At closing:
(1) Seller shall execute and deliver a general warranty deed conveying title to the Property to Buyer and showing no additional exceptions to those permitted in Paragraph 6, an assignment of Leases, and furnish tax statements or certificates showing no delinquent taxes on the Property.
(2) Buyer shall pay the Sales Price in good funds acceptable to the escrow agent.
(3) Seller and Buyer shall execute and deliver any notices, statements, certificates, affidavits, releases, loan documents and other documents reasonably required for the closing of the sale and the issuance of the Title Policy.
(4) There will be no liens, assessments, or security interests against the Property which will not be satisfied out of the sales proceeds unless securing the payment of any loans assumed by Buyer and assumed loans will not be in default.
(5) If the Property is subject to a residential lease, Seller shall transfer security deposits (as defined under §92.102, Property Code), if any, to Buyer. In such an event, Buyer shall deliver to the tenant a signed statement acknowledging that the Buyer has acquired the Property and is responsible for the return of the security deposit, and specifying the exact dollar amount of the security deposit.

10. POSSESSION:

A. Buyer's Possession: Seller shall deliver to Buyer possession of the Property in its present or required condition, ordinary wear and tear excepted: ❑ upon closing and funding ❑ according to a temporary residential lease form promulgated by TREC or other written lease required by the

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temporary residential lease form promulgated by TREC or other written lease required by the parties. Any possession by Buyer prior to closing or by Seller after closing which is not authorized by a written lease will establish a tenancy at sufferance relationship between the parties. **Consult your insurance agent prior to change of ownership and possession because insurance coverage may be limited or terminated. The absence of a written lease or appropriate insurance coverage may expose the parties to economic loss.**

B. [~~Leases:~~]

[~~(1)~~] After the Effective Date, Seller may not [~~execute any lease (including but not limited to mineral leases) or~~] convey any interest in the Property without Buyer's written consent.

[~~(2) If the Property is subject to any lease to which Seller is a party, Seller shall deliver to Buyer copies of the lease(s) and any move-in condition form signed by the tenant within 7 days after the Effective Date of the contract.~~]

11. SPECIAL PROVISIONS: (Insert only factual statements and business details applicable to the sale. TREC rules prohibit license holders from adding factual statements or business details for which a contract addendum or other form has been promulgated by TREC for mandatory use.)

12. SETTLEMENT AND OTHER EXPENSES:

A. The following expenses must be paid at or prior to closing:

(1) Expenses payable by Seller (Seller's Expenses):

(a) Releases of existing liens, including prepayment penalties and recording fees; release of Seller's loan liability; tax statements or certificates; preparation of deed; one-half of escrow fee; and other expenses payable by Seller under this contract.

(b) Seller shall also pay an amount not to exceed $ _____ to be applied in the following order: Buyer's Expenses which Buyer is prohibited from paying by FHA, VA, Texas Veterans Land Board or other governmental loan programs, and then to other Buyer's Expenses as allowed by the lender.

(2) Expenses payable by Buyer (Buyer's Expenses) Appraisal fees; loan application fees; origination charges; credit reports; preparation of loan documents; interest on the notes from date of disbursement to one month prior to dates of first monthly payments; recording fees; copies of easements and restrictions; loan title policy with endorsements required by lender; loan-related inspection fees; photos; amortization schedules; one-half of escrow fee; all prepaid items, including required premiums for flood and hazard insurance, reserve deposits for insurance, ad valorem taxes and special governmental assessments; final compliance inspection; courier fee; repair inspection; underwriting fee; wire transfer fee; expenses incident to any loan; Private Mortgage Insurance Premium (PMI), VA Loan Funding Fee, or FHA Mortgage Insurance Premium (MIP) as required by the lender; and other expenses payable by Buyer under this contract.

B. If any expense exceeds an amount expressly stated in this contract for such expense to be paid by a party, that party may terminate this contract unless the other party agrees to pay such excess. Buyer may not pay charges and fees expressly prohibited by FHA, VA, Texas Veterans Land Board or other governmental loan program regulations.

13. PRORATIONS AND ROLLBACK TAXES:

A. PRORATIONS: Taxes for the current year, interest, maintenance fees, assessments, dues and rents will be prorated through the Closing Date. The tax proration may be calculated taking into consideration any change in exemptions that will affect the current year's taxes. If taxes for the current year vary from the amount prorated at closing, the parties shall adjust the prorations when tax statements for the current year are available. If taxes are not paid at or prior to closing, Buyer shall pay taxes for the current year. Rentals which are unknown at time of closing will be prorated between Buyer and Seller when they become known.

B. ROLLBACK TAXES: If this sale or Buyer's use of the Property after closing results in the assessment of additional taxes, penalties or interest (Assessments) for periods prior to closing, the Assessments will be the obligation of Buyer. If Assessments are imposed because of Seller's use or change in use of the Property prior to closing, the Assessments will be the obligation of Seller. Obligations imposed by this paragraph will survive closing.

14. CASUALTY LOSS: If any part of the Property is damaged or destroyed by fire or other casualty after the Effective Date of this contract, Seller shall restore the Property to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller fails to do so due to factors beyond Seller's control, Buyer may (a) terminate this contract and the earnest money will be refunded to Buyer, (b) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (c) accept the Property in its damaged condition with an assignment of insurance proceeds, if permitted by Seller's insurance carrier, and receive credit from Seller at closing in the amount of the deductible under the insurance policy. Seller's obligations under this paragraph are independent of any other obligations of Seller under this contract.

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15. DEFAULT: If Buyer fails to comply with this contract, Buyer will be in default, and Seller may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money as liquidated damages, thereby releasing both parties from this contract. If Seller fails to comply with this contract for any other reason, Seller will be in default and Buyer may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money, thereby releasing both parties from this contract.

16. MEDIATION: It is the policy of the State of Texas to encourage resolution of disputes through alternative dispute resolution procedures such as mediation. Any dispute between Seller and Buyer related to this contract which is not resolved through informal discussion will be submitted to a mutually acceptable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

17. ATTORNEY'S FEES: A Buyer, Seller, Listing Broker, Other Broker, or escrow agent who prevails in any legal proceeding related to this contract is entitled to recover reasonable attorney's fees and all costs of such proceeding.

18. ESCROW:

A. ESCROW: The escrow agent is not (i) a party to this contract and does not have liability for the performance or nonperformance of any party to this contract, (ii) liable for interest on the earnest money and (iii) liable for the loss of any earnest money caused by the failure of any financial institution in which the earnest money has been deposited unless the financial institution is acting as escrow agent.

B. EXPENSES: At closing, the earnest money must be applied first to any cash down payment, then to Buyer's Expenses and any excess refunded to Buyer. If no closing occurs, escrow agent may: (i) require a written release of liability of the escrow agent from all parties, (ii) require payment of unpaid expenses incurred on behalf of a party, and (iii) only deduct from the earnest money the amount of unpaid expenses incurred on behalf of the party receiving the earnest money.

C. DEMAND: Upon termination of this contract, either party or the escrow agent may send a release of earnest money to each party and the parties shall execute counterparts of the release and deliver same to the escrow agent. If either party fails to execute the release, either party may make a written demand to the escrow agent for the earnest money. If only one party makes written demand for the earnest money, escrow agent shall promptly provide a copy of the demand to the other party. If escrow agent does not receive written objection to the demand from the other party within 15 days, escrow agent may disburse the earnest money to the party making demand reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and escrow agent may pay the same to the creditors. If escrow agent complies with the provisions of this paragraph, each party hereby releases escrow agent from all adverse claims related to the disbursal of the earnest money.

D. DAMAGES: Any party who wrongfully fails or refuses to sign a release acceptable to the escrow agent within 7 days of receipt of the request will be liable to the other party for (i) damages; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.

E. NOTICES: Escrow agent's notices will be effective when sent in compliance with Paragraph 21. Notice of objection to the demand will be deemed effective upon receipt by escrow agent.

19. REPRESENTATIONS: All covenants, representations and warranties in this contract survive closing. If any representation of Seller in this contract is untrue on the Closing Date, Seller will be in default. Unless expressly prohibited by written agreement, Seller may continue to show the Property and receive, negotiate and accept back up offers.

20. FEDERAL TAX REQUIREMENTS: If Seller is a "foreign person," as defined by Internal Revenue Code and its regulations, or if Seller fails to deliver an affidavit or a certificate of non-foreign status to Buyer that Seller is not a "foreign person," then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax forms. Internal Revenue Service regulations require filing written reports if currency in excess of specified amounts is received in the transaction.

21. NOTICES: All notices from one party to the other must be in writing and are effective

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when mailed to, hand-delivered at, or transmitted by fax or electronic transmission as follows:

To Buyer

at: _____

_____

Phone: ( ) _____

Fax: ( ) _____

E-mail: _____

To Seller

at: _____

_____

Phone: ( ) _____

Fax: ( ) _____

E-mail: _____

22. AGREEMENT OF PARTIES: This contract contains the entire agreement of the parties and

- ❑ Third Party Financing Addendum
- ❑ Seller Financing Addendum
- ❑ Addendum for Property Subject to Mandatory Membership in a Property Owners Association
- ❑ Buyer's Temporary Residential Lease
- ❑ Loan Assumption Addendum
- ❑ Addendum for Sale of Other Property by Buyer
- ❑ Addendum for "Back-Up" Contract
- ❑ Addendum for Coastal Area Property
- ❑ Addendum for Authorizing Hydrostatic Testing
- ❑ Addendum Concerning Right to Terminate Due to Lender's Appraisal
- ❑ Addendum for Reservation of Oil, Gas and Other Minerals
- ❑ Environmental Assessment, Threatened or Endangered Species and Wetlands Addendum
- ❑ Seller's Temporary Residential Lease
- ❑ Short Sale Addendum
- ❑ Addendum for Property Located Seaward of the Gulf Intracoastal Waterway
- ❑ Addendum for Seller's Disclosure of Information on Lead-based Paint and Lead-based Paint Hazards as Required by Federal Law
- ❑ Addendum for Property in a Propane Gas System Service Area
- ❑ Other (list): _____

23. TERMINATION OPTION: For nominal consideration, the receipt of which is hereby acknowledged by Seller, and Buyer's agreement to pay Seller $_____ (Option Fee) within 3 days after the Effective Date of this contract, Seller grants Buyer the unrestricted right to terminate this contract by giving notice of termination to Seller within _____ days after the Effective Date of this contract (Option Period). Notices under this paragraph must be given by 5:00 p.m. (local time where the Property is located) by the date specified. If no dollar amount is stated as the Option Fee or if Buyer fails to pay the Option Fee to Seller within the time prescribed, this paragraph will not be a part of this contract and Buyer shall not have the unrestricted right to terminate this contract. If Buyer gives notice of termination within the time prescribed, the Option Fee will not be refunded; however, any earnest money will be refunded to Buyer. The Option Fee ❑will ❑will not be credited to the Sales Price at closing. **Time is of the essence for this paragraph and strict compliance with the time for performance is required.**

24. CONSULT AN ATTORNEY BEFORE SIGNING: TREC rules prohibit real estate license holders from giving legal advice. READ THIS CONTRACT CAREFULLY.

Buyer's Attorney is: _____

Phone: ( ) _____

Fax: ( ) _____

E-mail: _____

Seller's Attorney is: _____

Phone: ( ) _____

Fax: ( ) _____

E-mail: _____

EXECUTED the _____ day of _____, 20_____ (Effective Date).

_____ Buyer

_____ Buyer

_____ Seller

_____ Seller

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The form of this contract has been approved by the Texas Real Estate Commission. TREC forms are intended for use only by trained real estate license holders. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, (512) 936-3000 (http://www.trec.texas.gov) TREC NO. 25-12. This form replaces TREC NO. 25-11.

RATIFICATION OF FEE

Listing Broker has agreed to pay Other Broker _____ of the total Sales Price when Listing Broker's fee is received. Escrow Agent is authorized and directed to pay Other Broker from Listing Broker's fee at closing.

Other Broker: Listing Broker:

By: _____ By: _____

BROKER INFORMATION AND AGREEMENT FOR PAYMENT OF BROKERS' FEES

Other Broker License No.	Listing or Principal Broker License No.
Associate's Name License No.	Listing Associate's Name License No.
Associate's Email Address Phone	Listing Associate's Email Address Phone
Licensed Supervisor of Associate License No.	Licensed Supervisor of Listing Associate License No.
Other Broker's Office Address Phone	Listing Broker's Office Address Phone
City State Zip	City State Zip

represents ❑ Buyer only as Buyer's agent
❑ Seller as Listing Broker's subagent

Selling Associate License No.
Selling Associate's Email Address Phone
Licensed Supervisor of Selling Associate License No.
Selling Associate's Office Address
City State Zip

represents ❑ Seller only
❑ Buyer only
❑ Seller and Buyer as an intermediary

Upon closing of the sale by Seller to Buyer of the Property described in the contract to which this fee agreement is attached: (a) ❑Seller ❑ Buyer will pay Listing/Principal Broker ❑a cash fee of $_____ or ❑ _____% of the total Sales Price; and (b) ❑Seller ❑ Buyer will pay Other Broker ❑a cash fee of $_____ or ❑ _____% of the total Sales Price. Seller/Buyer authorizes and directs Escrow Agent to pay the brokers from the proceeds at closing.

Brokers' fees are negotiable. Brokers' fees or the sharing of fees between brokers are not fixed, controlled, recommended, suggested or maintained by the Texas Real Estate Commission.

_____ Seller	_____ Buyer
_____ Seller	_____ Buyer

Do not sign if there is a separate written agreement for payment of Brokers' fees.

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OPTION FEE RECEIPT

Receipt of $_____ (Option Fee) in the form of _____
is acknowledged.

_____ _____
Seller or Listing Broker Date

EARNEST MONEY RECEIPT

Receipt of $_____ Earnest Money in the form of _____
is acknowledged.

_____ _____
Escrow Agent Received by Email Address Date/Time

_____ _____
Address Phone

_____ _____
City State Zip Fax

CONTRACT RECEIPT

Receipt of the Contract is acknowledged.

_____ _____
Escrow Agent Received by Email Address Date

_____ _____
Address Phone

_____ _____
City State Zip Fax

ADDITIONAL EARNEST MONEY RECEIPT

Receipt of $_____ additional Earnest Money in the form of _____
is acknowledged.

_____ _____
Escrow Agent Received by Email Address Date/Time

_____ _____
Address Phone

_____ _____
City State Zip Fax

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PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC) 2019 [2-12-]
NOTICE: Not For Use Where Seller Owns Fee Simple Title To Land Beneath Unit

RESIDENTIAL CONDOMINIUM CONTRACT (RESALE)

1. PARTIES: The parties to this contract are _____ (Seller) and _____ (Buyer). Seller agrees to sell and convey to Buyer and Buyer agrees to buy from Seller the Property defined below.

2. PROPERTY AND CONDOMINIUM DOCUMENTS:

A. The Condominium Unit, improvements and accessories described below are collectively referred to as the ["]Property["] (Property).

(1) CONDOMINIUM UNIT: Unit _____, in Building _____, of _____, a condominium project, located at _____ _____ (address/zip code), City of _____, County of _____ _____, Texas, described in the Condominium Declaration and Plat and any amendments thereto of record in said County; together with such Unit's undivided interest in the Common Elements designated by the Declaration, including those areas reserved as Limited Common Elements appurtenant to the Unit and such other rights to use the Common Elements which have been specifically assigned to the Unit in any other manner. Parking areas assigned to the Unit are: _____ _____.

(2) IMPROVEMENTS: All fixtures and improvements attached to the above described real property including without limitation, the following **permanently installed and built-in items**, if any: all equipment and appliances, valances, screens, shutters, awnings, wall-to-wall carpeting, mirrors, ceiling fans, attic fans, mail boxes, television antennas, mounts and brackets for televisions and speakers, heating and air conditioning units, security and fire detection equipment, wiring, plumbing and lighting fixtures, chandeliers, shrubbery, landscaping, outdoor cooking equipment, and all other property owned by Seller and attached to the above described Condominium Unit.

(3) ACCESSORIES: The following described related accessories, if any: window air conditioning units, stove, fireplace screens, curtains and rods, blinds, window shades, draperies and rods, door keys, mailbox keys, above ground pool, swimming pool equipment and maintenance accessories, artificial fireplace logs, and controls for: (i) garage doors, (ii) entry gates, and (iii) other improvements and accessories.

(4) EXCLUSIONS: The following improvements and accessories will be retained by Seller and must be removed prior to delivery of possession: _____ _____.

B. The Declaration, Bylaws and any Rules of the Association are called "Documents". (Check one box only):

❑ (1) Buyer has received a copy of the Documents. Buyer is advised to read the Documents before signing the contract.

❑ (2) Buyer has not received a copy of the Documents. Seller, at Seller's expense, shall deliver the Documents to Buyer within _____ days after the Effective Date of the contract. Buyer may cancel the contract before the sixth day after Buyer receives the Documents by hand-delivering or mailing written notice of cancellation to Seller by certified United States mail, return receipt requested. If Buyer cancels the contract pursuant to this paragraph, the contract will terminate and the earnest money will be refunded to Buyer.

C. The Resale Certificate from the condominium owners association (the Association) is called the "Certificate". The Certificate must be in a form promulgated by TREC or required by the parties. The Certificate must have been prepared, at Seller's expense, no more than 3 months before the date it is delivered to Buyer and must contain at a minimum the information required by Section 82.157, Texas Property Code. (Check one box only):

❑ (1) Buyer has received the Certificate.

❑ (2) Buyer has not received the Certificate. Seller shall deliver the Certificate to Buyer within _____ days after the Effective Date of the contract. Buyer may cancel the contract before the sixth day after the date Buyer receives the Certificate by hand-delivering or mailing written notice of cancellation to Seller by certified United States mail, return receipt requested. If Buyer cancels the contract pursuant to this paragraph, the contract will terminate and the earnest money will be refunded to Buyer.

❑ (3) Buyer has received Seller's affidavit that Seller requested information from the Association concerning its financial condition as required by the Texas Property Code, and that the Association did not provide a Certificate or information required in the Certificate. Buyer and Seller agree to waive the requirement to furnish the Certificate.

D. If the Documents reveal that the Property is subject to a right of refusal under which the Association or a member of the Association may purchase the Property, the Effective Date shall be amended to the date that Buyer receives a copy of the Association's certification that: (i) Seller has complied with the requirements under the right of refusal; and (ii) all persons who may exercise the right of refusal have not exercised or have waived the right to buy the Property. If Buyer does not receive the Association's certification within _____ days after the Effective Date or if the right of refusal is exercised, this contract shall terminate and the earnest money shall be refunded to Buyer.

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3. SALES PRICE:

A. Cash portion of Sales Price payable by Buyer at closing..... $_____

B. Sum of all financing described in the attached: ❑ Third Party Financing Addendum, ❑ Loan Assumption Addendum, ❑ Seller Financing Addendum ... $_____

C. Sales Price (Sum of A and B)..... $_____

4. LEASES:

A. The Property is subject to the following types of leases to which the Seller is a party, including any addendum, amendment, or move-in condition form (Leases):

❑ Residential Leases

❑ Oil and Gas or Mineral Leases

❑ Leases of Fixtures (for example, solar panels, propane tanks, water softener)

❑ Other: _____

B. Delivery of Leases (check one box only):

❑ (1) Buyer has received a copy of all Leases.

❑ (2) Buyer has not received a copy of all Leases. Seller shall provide a copy of the Leases within 3 days after the Effective Date. Buyer may terminate the contract within _____ days after the date the Buyer receives the Leases and the earnest money shall be refunded to Buyer.

C. After the Effective Date, Seller may not execute any new lease or amend any Lease without Buyer's written consent.

~~[LICENSE HOLDER DISCLOSURE: Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as trustee or of which the license holder or the license holder's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable:_____.]~~

5. EARNEST MONEY: Within 3 days after the Effective Date, Buyer must deliver $_____ as earnest money to _____, as escrow agent, at _____ (address). Buyer shall deliver additional earnest money of $_____ to escrow agent within _____ days after the Effective Date of this contract. If Buyer fails to deliver the earnest money within the time required, Seller may terminate this contract or exercise Seller's remedies under Paragraph 15, or both, by providing notice to Buyer before Buyer delivers the earnest money. If the last day to deliver the earnest money falls on a Saturday, Sunday, or legal holiday, the time to deliver the earnest money is extended until the end of the next day that is not a Saturday, Sunday, or legal holiday. **Time is of the essence for this paragraph.**

6. TITLE POLICY:

A. TITLE POLICY: Seller shall furnish to Buyer at ❑Seller's ❑Buyer's expense an owner policy of title insurance (Title Policy) issued by _____(Title Company) in the amount of the Sales Price, dated at or after closing, insuring Buyer against loss under the provisions of the Title Policy, subject to the promulgated exclusions (including existing building and zoning ordinances) and the following exceptions:

(1) Restrictive covenants common to the platted subdivision in which the Property is located.
(2) The standard printed exception for standby fees, taxes and assessments.
(3) Liens created as part of the financing described in Paragraph 3.
(4) Terms and provisions of the Documents including the assessments and platted easements.
(5) Reservations or exceptions otherwise permitted by this contract or as may be approved by Buyer in writing.
(6) The standard printed exception as to marital rights.
(7) The standard printed exception as to waters, tidelands, beaches, streams, and related matters.
(8) The standard printed exception as to discrepancies, conflicts, shortages in area or boundary lines, encroachments or protrusions, or overlapping improvements.
(9) The exception or exclusion regarding minerals approved by the Texas Department of Insurance.

B. COMMITMENT: Within 20 days after the Title Company receives a copy of this contract, Seller shall furnish to Buyer a commitment for title insurance (Commitment) and, at Buyer's expense, legible copies of restrictive covenants and documents evidencing exceptions in the Commitment (Exception Documents) other than the standard printed exceptions. Seller authorizes the Title Company to deliver the Commitment and Exception Documents to Buyer at Buyer's address shown in Paragraph 21. If the Commitment and Exception Documents are not delivered to Buyer within the specified time, the time for delivery will be automatically extended up to 15 days or 3 days before the Closing Date, whichever is earlier. If the Commitment and Exception Documents are not delivered within the time required, Buyer may

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terminate this contract and the earnest money will be refunded to Buyer.

C. OBJECTIONS: Buyer may object in writing to defects, exceptions, or encumbrances to title: disclosed in the Commitment other than items 6A(1) through (9) above; or which prohibit the following use or activity: _____

_____

_____.

Buyer must object the earlier of (i) the Closing Date or (ii) _____ days after Buyer receives the Commitment and Exception Documents. Buyer's failure to object within the time allowed will constitute a waiver of Buyer's right to object; except that the requirements in Schedule C of the Commitment are not waived by Buyer. Provided Seller is not obligated to incur any expense, Seller shall cure any timely objections of Buyer or any third party lender within 15 days after Seller receives the objections (Cure Period) and the Closing Date will be extended as necessary. If objections are not cured within the Cure Period, Buyer may, by delivering notice to Seller within 5 days after the end of the Cure Period: (i) terminate this contract and the earnest money will be refunded to Buyer; or (ii) waive the objections. If Buyer does not terminate within the time required, Buyer shall be deemed to have waived the objections. If the Commitment [or Survey] is revised or any new Exception Document(s) is delivered, Buyer may object to any new matter revealed in the revised Commitment [or Survey] or new Exception Document(s) within the same time stated in this paragraph to make objections beginning when the revised Commitment[, Survey,] or Exception Document (s) is delivered to Buyer.

D. TITLE NOTICES:

(1) ABSTRACT OR TITLE POLICY: Broker advises Buyer to have an abstract of title covering the Property examined by an attorney of Buyer's selection, or Buyer should be furnished with or obtain a Title Policy. If a Title Policy is furnished, the Commitment should be promptly reviewed by an attorney of Buyer's choice due to the time limitations on Buyer's right to object.

(2) STATUTORY TAX DISTRICTS: If the Property is situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, Chapter 49, Texas Water Code, requires Seller to deliver and Buyer to sign the statutory notice relating to the tax rate, bonded indebtedness, or standby fee of the district prior to final execution of this contract.

(3) TIDE WATERS: If the Property abuts the tidally influenced waters of the state, §33.135, Texas Natural Resources Code, requires a notice regarding coastal area property to be included in the contract. An addendum containing the notice promulgated by TREC or required by the parties must be used.

(4) ANNEXATION: If the Property is located outside the limits of a municipality, Seller notifies Buyer under §5.011, Texas Property Code, that the Property may now or later be included in the extraterritorial jurisdiction of a municipality and may now or later be subject to annexation by the municipality. Each municipality maintains a map that depicts its boundaries and extraterritorial jurisdiction. To determine if the Property is located within a municipality's extraterritorial jurisdiction or is likely to be located within a municipality's extraterritorial jurisdiction, contact all municipalities located in the general proximity of the Property for further information.

(5) PROPERTY LOCATED IN A CERTIFICATED SERVICE AREA OF A UTILITY SERVICE PROVIDER: Notice required by §13.257, Water Code: The real property, described in Paragraph 2, that you are about to purchase may be located in a certificated water or sewer service area, which is authorized by law to provide water or sewer service to the properties in the certificated area. If your property is located in a certificated area there may be special costs or charges that you will be required to pay before you can receive water or sewer service. There may be a period required to construct lines or other facilities necessary to provide water or sewer service to your property. You are advised to determine if the property is in a certificated area and contact the utility service provider to determine the cost that you will be required to pay and the period, if any, that is required to provide water or sewer service to your property. The undersigned Buyer hereby acknowledges receipt of the foregoing notice at or before the execution of a binding contract for the purchase of the real property described in Paragraph 2 or at closing of purchase of the real property.

(6) TRANSFER FEES: If the Property is subject to a private transfer fee obligation, §5.205, Property Code, requires Seller to notify Buyer as follows: The private transfer fee obligation may be governed by Chapter 5, Subchapter G of the Texas Property Code.

(7) PROPANE GAS SYSTEM SERVICE AREA: If the Property is located in a propane gas system service area owned by a distribution system retailer, Seller must give Buyer written notice as required by §141.010, Texas Utilities Code. An addendum containing the notice approved by TREC or required by the parties should be used.

(8) NOTICE OF WATER LEVEL FLUCTUATIONS: If the Property adjoins an impoundment of water, including a reservoir or lake, constructed and maintained under Chapter 11, Water Code, that has a storage capacity of at least 5,000 acre-feet at the impoundment's normal operating level, Seller hereby notifies Buyer: "The water level of the impoundment of water adjoining the Property fluctuates for various reasons, including as a result of: (1) an entity lawfully exercising its right to use the water stored in the impoundment; or (2) drought or flood conditions."

7. PROPERTY CONDITION:

A. ACCESS, INSPECTIONS AND UTILITIES: Seller shall permit Buyer and Buyer's agents access

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to the Property at reasonable times. Buyer may have the Property inspected by inspectors selected by Buyer and licensed by TREC or otherwise permitted by law to make inspections. Any hydrostatic testing must be separately authorized by Seller in writing. Seller at Seller's expense shall immediately cause existing utilities to be turned on and shall keep the utilities on during the time this contract is in effect .

B. SELLER'S DISCLOSURE NOTICE PURSUANT TO §5.008, TEXAS PROPERTY CODE (Notice): (Check one box only)

❑ (1) Buyer has received the Notice.

❑ (2) Buyer has not received the Notice. Within _____ days after the Effective Date of this contract, Seller shall deliver the Notice to Buyer. If Buyer does not receive the Notice, Buyer may terminate this contract at any time prior to the closing and the earnest money will be refunded to Buyer. If Seller delivers the Notice, Buyer may terminate this contract for any reason within 7 days after Buyer receives the Notice or prior to the closing, whichever first occurs, and the earnest money will be refunded to Buyer.

❑ (3) The Texas Property Code does not require this Seller to furnish the Notice.

C. SELLER'S DISCLOSURE OF LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS is required by Federal law for a residential dwelling constructed prior to 1978.

D. ACCEPTANCE OF PROPERTY CONDITION: "As Is" means the present condition of the Property with any and all defects and without warranty except for the warranties of title and the warranties in this contract. Buyer's agreement to accept the Property As Is under Paragraph 7D (1) or (2) does not preclude Buyer from inspecting the Property under Paragraph 7A, from negotiating repairs or treatments in a subsequent amendment, or from terminating this contract during the Option Period, if any. (Check one box only)

❑ (1) Buyer accepts the Property As Is.

❑ (2) Buyer accepts the Property As Is provided Seller, at Seller's expense, shall complete the following specific repairs and treatments:_____
_____.
(Do not insert general phrases, such as "subject to inspections," that do not identify specific repairs and treatments.)

E. LENDER REQUIRED REPAIRS AND TREATMENTS: Unless otherwise agreed in writing, neither party is obligated to pay for lender required repairs, which includes treatment for wood destroying insects. If the parties do not agree to pay for the lender required repairs or treatments, this contract will terminate and the earnest money will be refunded to Buyer. If the cost of lender required repairs and treatments exceeds 5% of the Sales Price, Buyer may terminate this contract and the earnest money will be refunded to Buyer.

F. COMPLETION OF REPAIRS AND TREATMENTS: Unless otherwise agreed in writing: (i) Seller shall complete all agreed repairs and treatments prior to the Closing Date; and (ii) all required permits must be obtained, and repairs and treatments must be performed by persons who are licensed to provide such repairs or treatments or, if no license is required by law, are commercially engaged in the trade of providing such repairs or treatments. At Buyer's election, any transferable warranties received by Seller with respect to the repairs and treatments will be transferred to Buyer at Buyer's expense. If Seller fails to complete any agreed repairs and treatments prior to the Closing Date, Buyer may exercise remedies under Paragraph 15 or extend the Closing Date up to 5 days if necessary for Seller to complete repairs and treatments.

G. ENVIRONMENTAL MATTERS: Buyer is advised that the presence of wetlands, toxic substances, including asbestos and wastes or other environmental hazards or the presence of a threatened or endangered species or its habitat may affect Buyer's intended use of the Property. If Buyer is concerned about these matters, an addendum promulgated by TREC or required by the parties should be used.

H. RESIDENTIAL SERVICE CONTRACTS: Buyer may purchase a residential service contract from a residential service company licensed by TREC. If Buyer purchases a residential service contract, Seller shall reimburse Buyer at closing for the cost of the residential service contract in an amount not exceeding $_____. Buyer should review any residential service contract for the scope of coverage, exclusions and limitations. **The purchase of a residential service contract is optional. Similar coverage may be purchased from various companies authorized to do business in Texas.**

8. LICENSE HOLDERS: [~~BROKERS' FEES:~~]

A. All obligations of the parties for payment of brokers' fees are contained in separate written agreements.

B. Texas law requires a real estate license holder who is a party to a transaction or acting on behalf of a spouse, parent, child, business entity in which the license holder owns more than 10%, or a trust for which the license holder acts as a trustee or of which the license holder or the license holder's spouse, parent or child is a beneficiary, to notify the other party in writing before entering into a contract of sale. Disclose if applicable:_____
_____.

9. CLOSING:

A. The closing of the sale will be on or before _____, 20____, or within 7 days after objections to matters disclosed in the Commitment have been cured, whichever date is later (Closing Date). If either party fails to close the sale by the Closing Date, the non-defaulting party may exercise the remedies contained in Paragraph 15.

B. At closing:

(1) Seller shall execute and deliver a general warranty deed conveying title to the Property to

Buyer and showing no additional exceptions to those permitted in Paragraph 6 and furnish tax statements or certificates showing no delinquent taxes on the Property.

(2) Buyer shall pay the Sales Price in good funds acceptable to the escrow agent.

(3) Seller and Buyer shall execute and deliver any notices, statements, certificates, affidavits, releases, loan documents and other documents reasonably required for the closing of the sale and the issuance of the Title Policy.

(4) There will be no liens, assessments, or security interests against the Property which will not be satisfied out of the sales proceeds unless securing the payment of any loans assumed by Buyer and assumed loans will not be in default.

(5) If the Property is subject to a residential lease, Seller shall transfer security deposits (as defined under §92.102, Property Code), if any, to Buyer. In such an event, Buyer shall deliver to the tenant a signed statement acknowledging that the Buyer has acquired the Property and is responsible for the return of the security deposit, and specifying the exact dollar amount of the security deposit.

10. POSSESSION:

A. Buyers Possession: Seller shall deliver to Buyer possession of the Property in its present or required condition, ordinary wear and tear excepted: ❑ upon closing and funding ❑ according to a temporary residential lease form promulgated by TREC or other written lease required by the parties. Any possession by Buyer prior to closing or by Seller after closing which is not authorized by a written lease will establish a tenancy at sufferance relationship between the parties. **Consult your insurance agent prior to change of ownership and possession because insurance coverage may be limited or terminated. The absence of a written lease or appropriate insurance coverage may expose the parties to economic loss.**

B. [~~Leases:~~]

[~~(1)~~]After the Effective Date, Seller may not [~~execute any lease (including but not limited to mineral leases) or~~] convey any interest in the Property without Buyer's written consent.

[~~(2) If the Property is subject to any lease to which Seller is a party, Seller shall deliver to Buyer copies of the lease(s) and any move-in condition form signed by the tenant within 7 days after the Effective Date of the contract.~~]

11. SPECIAL PROVISIONS: (Insert only factual statements and business details applicable to the sale. TREC rules prohibit license holders from adding factual statements or business details for which a contract addendum, lease or other form has been promulgated by TREC for mandatory use.)

12. SETTLEMENT AND OTHER EXPENSES:

A. The following expenses must be paid at or prior to closing:

(1) Expenses payable by Seller (Seller's Expenses):

(a) Releases of existing liens, including prepayment penalties and recording fees; lender, FHA, or VA completion requirements; tax statements or certificates; preparation of deed; one-half of escrow fee; and other expenses payable by Seller under this contract.

(b) Seller shall also pay an amount not to exceed $ _____ to be applied in the following order: Buyer's Expenses which Buyer is prohibited from paying by FHA, VA, Texas Veterans Land Board or other governmental loan programs, and then to other Buyer's Expenses as allowed by the lender.

(2) Expenses payable by Buyer (Buyer's Expenses): Appraisal fees; loan application fees; origination charges; credit reports; preparation of loan documents; interest on the notes from date of disbursement to one month prior to dates of first monthly payments; recording fees; copies of easements and restrictions; loan title policy with endorsements required by lender; loan-related inspection fees; photos; amortization schedules; one-half of escrow fee; all prepaid items, including required premiums for flood and hazard insurance, reserve deposits for insurance, ad valorem taxes and special governmental assessments; final compliance inspection; courier fee; repair inspection; underwriting fee; wire transfer fee; expenses incident to any loan; Private Mortgage Insurance Premium (PMI), VA Loan Funding Fee, or FHA Mortgage Insurance Premium (MIP) as required by the lender; and other expenses payable by Buyer under this contract.

(3) Except as provided by 12(A)(4) below, Buyer shall pay any and all Association fees or other charges resulting from the transfer of the Property not to exceed $_____ and Seller shall pay any excess.

(4) Buyer shall pay any deposits for reserves required at closing by the Association.

B. If any expense exceeds an amount expressly stated in this contract for such expense to be paid by a party, that party may terminate this contract unless the other party agrees to pay such excess. Buyer may not pay charges and fees expressly prohibited by FHA, VA, Texas Veterans Land Board or other governmental loan program regulations.

13. PRORATIONS: Taxes for the current year, interest, maintenance fees, regular condominium assessments, dues and rents will be prorated through the Closing Date. The tax proration may be calculated taking into consideration any change in exemptions that will affect the current year's taxes. If taxes for the current year vary from the amount prorated at closing, the parties shall adjust the prorations when tax statements for the current year are available. If taxes are not paid at or prior to closing, Buyer shall pay taxes for the current year. Cash reserves from regular condominium assessments for deferred maintenance or capital improvements established by the Association will not be credited to Seller. Any special condominium assessment due and unpaid at closing will be the obligation of Seller.

14. CASUALTY LOSS: If any part of the Unit which Seller is solely obligated to maintain and

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repair under the terms of the Declaration is damaged or destroyed by fire or other casualty, Seller shall restore the same to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller fails to do so due to factors beyond Seller's control, Buyer may (a) terminate this contract and the earnest money will be refunded to Buyer, (b) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (c) accept the Property in its damaged condition with an assignment of insurance proceeds, if permitted by Seller's insurance carrier, and receive credit from Seller at closing in the amount of the deductible under the insurance policy. If any part of the Common Elements or Limited Common Elements appurtenant to the Unit is damaged or destroyed by fire or other casualty loss, Buyer will have 7 days from receipt of notice of such casualty loss within which to notify Seller in writing that the contract will be terminated unless Buyer receives written confirmation from the Association that the damaged condition will be restored to its previous condition within a reasonable time at no cost to Buyer. Unless Buyer gives such notice within such time, Buyer will be deemed to have accepted the Property without confirmation of such restoration. Seller will have 7 days from the date of receipt of Buyer's notice within which to cause to be delivered to Buyer such confirmation. If written confirmation is not delivered to Buyer as required above, Buyer may terminate this contract and the earnest money will be refunded to Buyer. Seller's obligations under this paragraph are independent of any other obligations of Seller under this contract.

15. DEFAULT: If Buyer fails to comply with this contract, Buyer will be in default, and Seller may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money as liquidated damages, thereby releasing both parties from this contract. If Seller fails to comply with this contract for any other reason, Seller will be in default and Buyer may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money, thereby releasing both parties from this contract.

16. MEDIATION: It is the policy of the State of Texas to encourage resolution of disputes through alternative dispute resolution procedures such as mediation. Any dispute between Seller and Buyer related to this contract which is not resolved through informal discussion will be submitted to a mutually acceptable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

17. ATTORNEY'S FEES: A Buyer, Seller, Listing Broker, Other Broker, or escrow agent who prevails in any legal proceeding related to this contract is entitled to recover reasonable attorney's fees and all costs of such proceeding.

18. ESCROW:

A. ESCROW: The escrow agent is not (i) a party to this contract and does not have liability for the performance or nonperformance of any party to this contract, (ii) liable for interest on the earnest money and (iii) liable for the loss of any earnest money caused by the failure of any financial institution in which the earnest money has been deposited unless the financial institution is acting as escrow agent.

B. EXPENSES: At closing, the earnest money must be applied first to any cash down payment, then to Buyer's Expenses and any excess refunded to Buyer. If no closing occurs, escrow agent may: (i) require a written release of liability of the escrow agent from all parties, (ii) require payment of unpaid expenses incurred on behalf of a party, and (iii) only deduct from the earnest money the amount of unpaid expenses incurred on behalf of the party receiving the earnest money.

C. DEMAND: Upon termination of this contract, either party or the escrow agent may send a release of earnest money to each party and the parties shall execute counterparts of the release and deliver same to the escrow agent. If either party fails to execute the release, either party may make a written demand to the escrow agent for the earnest money. If only one party makes written demand for the earnest money, escrow agent shall promptly provide a copy of the demand to the other party. If escrow agent does not receive written objection to the demand from the other party within 15 days, escrow agent may disburse the earnest money to the party making demand reduced by the amount of unpaid expenses incurred on behalf of the party receiving the earnest money and escrow agent may pay the same to the creditors. If escrow agent complies with the provisions of this paragraph, each party hereby releases escrow agent from all adverse claims related to the disbursal of the earnest money.

D. DAMAGES: Any party who wrongfully fails or refuses to sign a release acceptable to the escrow agent within 7 days of receipt of the request will be liable to the other party for (i) damages; (ii) the earnest money; (iii) reasonable attorney's fees; and (iv) all costs of suit.

E. NOTICES: Escrow agent's notices will be effective when sent in compliance with Paragraph 21. Notice of objection to the demand will be deemed effective upon receipt by escrow agent.

19. REPRESENTATIONS: All covenants, representations and warranties in this contract survive is closing. If any representation of Seller in this contract is untrue on the Closing Date, Seller will be in default. Unless expressly prohibited by written agreement, Seller may continue to show the Property and receive, negotiate and accept back up offers.

20. FEDERAL TAX REQUIREMENTS: If Seller is a "foreign person," as defined by Internal Revenue Code and its regulations, or if Seller fails to deliver an affidavit or a certificate of non-foreign status to Buyer that Seller is not a "foreign person," then Buyer shall withhold from the sales proceeds an amount sufficient to comply with applicable tax law and deliver the same to the Internal Revenue Service together with appropriate tax forms. Internal Revenue Service regulations require filing written reports if currency in excess of specified amounts received in the transaction.

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21. NOTICES: All notices from one party to the other must be in writing and are effective when mailed to, hand-delivered at, or transmitted by fax or electronic transmission as follows:

To Buyer at:		**To Seller at:**	
Phone:	( )	Phone:	( )
Fax:	( )	Fax:	( )
E-mail:		E-mail:	

22. AGREEMENT OF PARTIES: This contract contains the entire agreement of the parties and cannot be changed except by their written agreement. Addenda which are a part of this contract are (check all applicable boxes):

- ❑ Third Party Financing Addendum
- ❑ Loan Assumption Addendum
- ❑ Buyer's Temporary Residential Lease
- ❑ Seller's Temporary Residential Lease
- ❑ Addendum for Sale of Other Property by Buyer
- ❑ Addendum for "Back-Up" Contract
- ❑ Seller Financing Addendum
- ❑ Addendum for Coastal Area Property
- ❑ Short Sale Addendum
- ❑ Addendum for Seller's Disclosure of Information on Lead-based Paint and Lead-based Paint Hazards as Required by Federal Law
- ❑ Addendum for Authorizing Hydrostatic Testing
- ❑ Addendum Concerning Right to Terminate Due to Lender's Appraisal
- ❑ Environmental Assessment, Threatened or Endangered Species and Wetlands Addendum
- ❑ Addendum for Property Located Seaward of the Gulf Intracoastal Waterway
- ❑ Addendum for Release of Liability on Assumption of FHA, VA, or Conventional Loan Restoration of Seller's Entitlement for VA Guaranteed Loan
- ❑ Addendum for Property in a Propane Gas System Service Area
- ❑ Other (list): _____

_____
_____
_____
_____
_____
_____

23. TERMINATION OPTION: For nominal consideration, the receipt of which is hereby acknowledged by Seller, and Buyer's agreement to pay Seller $_____ (Option Fee) within 3 days after the Effective Date of this contract, Seller grants Buyer the unrestricted right to terminate this contract by giving notice of termination to Seller within _____ days after the Effective Date of this contract (Option Period). Notices under this paragraph must be given by 5:00 p.m. (local time where the Property is located) by the date specified. If no dollar amount is stated as the Option Fee or if Buyer fails to pay the Option Fee to Seller within the time prescribed, this paragraph will not be a part of this contract and Buyer shall not have the unrestricted right to terminate this contract. If Buyer gives notice of termination within the time prescribed, the Option Fee will not be refunded; however, any earnest money will be refunded to Buyer. The Option Fee ❑will ❑will not be credited to the Sales Price at closing. **Time is of the essence for this paragraph and strict compliance with the time for performance is required.**

24. CONSULT AN ATTORNEY BEFORE SIGNING: TREC rules prohibit real estate license holders from giving legal advice. READ THIS CONTRACT CAREFULLY.

Buyer's Attorney is:		Seller's Attorney is:	
Phone:	( )	Phone:	( )
Fax:	( )	Fax:	( )
E-mail:		E-mail:	

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EXECUTED the _____day of _____, 20_____ (Effective Date).
(BROKER: FILL IN THE DATE OF FINAL ACCEPTANCE.)

Buyer	Seller
Buyer	Seller

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The form of this contract has been approved by the Texas Real Estate Commission. TREC forms are intended for use only by trained real estate license holders. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, (512) 936-3000 (http://www.trec.texas.gov) TREC NO. 30-14 [30-13]. This form replaces TREC NO. 30-13 [30-12].

BROKER INFORMATION
(Print name(s) only. Do not sign)

Other Broker Firm	License No.
represents ❑ Buyer only as Buyer's agent ❑ Seller as Listing Broker's subagent	
Associate's Name	License No.
Associate's Email Address	Phone
Licensed Supervisor of Associate	License No.
Other Broker's Address	Phone
City State	Zip

Listing Broker Firm	License No.
represents ❑ Seller and Buyer as an intermediary ❑ Seller only as Seller's agent	
Listing Associate's Name	License No.
Listing Associate's Email Address	Phone
Licensed Supervisor of Listing Associate	License No.
Listing Broker's Office Address	Phone
City State	Zip
Selling Associate's Name	License No.
Selling Associate's Email Address	Phone
Licensed Supervisor of Selling Associate	License No.
Selling Associate's Office Address	
City State	Zip

[Listing Broker has agreed to pay Other Broker _____ of the total sales price when the Listing Broker's fee is received. Escrow agent is authorized and directed to pay Other Broker from Listing Broker's fee at closing.]

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OPTION FEE RECEIPT

Receipt of $ _____ (Option Fee) in the form of _____ is acknowledged.

Seller or Listing Broker _____ Date

EARNEST MONEY RECEIPT

Receipt of $ _____ Earnest Money in the form of _____ is acknowledged.

Escrow Agent _____ Received by _____ Email Address _____ Date/Time

Address _____ Phone

City _____ State _____ Zip _____ Fax

CONTRACT RECEIPT

Receipt of the Contract is acknowledged.

Escrow Agent _____ Received by _____ Email Address _____ Date

Address _____ Phone

City _____ State _____ Zip _____ Fax

ADDITIONAL EARNEST MONEY RECEIPT

Receipt of $ _____ additional Earnest Money in the form of _____ is acknowledged.

Escrow Agent _____ Received by _____ Email Address _____ Date/Time

Address _____ Phone

City _____ State _____ Zip _____ Fax

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PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)

11-13-2019 [~~08-18-2014~~]

ADDENDUM FOR PROPERTY SUBJECT TO MANDATORY MEMBERSHIP IN A PROPERTY OWNERS ASSOCIATION

(NOT FOR USE WITH CONDOMINIUMS)

ADDENDUM TO CONTRACT CONCERNING THE PROPERTY AT

_____

(Street Address and City)

_____

(Name of Property Owners Association, (Association) and Phone Number)

A. SUBDIVISION INFORMATION: "Subdivision Information" means: (i) a current copy of the restrictions applying to the subdivision and bylaws and rules of the Association, and (ii) a resale certificate, all of which are described by Section 207.003 of the Texas Property Code.

(Check only one box):

❑ 1. Within _____ days after the effective date of the contract, Seller shall obtain, pay for, and deliver the Subdivision Information to the Buyer. If Seller delivers the Subdivision Information, Buyer may terminate the contract within 3 days after Buyer receives the Subdivision Information or prior to closing, whichever occurs first, and the earnest money will be refunded to Buyer. If Buyer does not receive the Subdivision Information, Buyer, as Buyer's sole remedy, may terminate the contract at any time prior to closing and the earnest money will be refunded to Buyer.

❑ 2. Within _____ days after the effective date of the contract, Buyer shall obtain, pay for, and deliver a copy of the Subdivision Information to the Seller. If Buyer obtains the Subdivision Information within the time required, Buyer may terminate the contract within 3 days after Buyer receives the Subdivision Information or prior to closing, whichever occurs first, and the earnest money will be refunded to Buyer. If Buyer, due to factors beyond Buyer's control, is not able to obtain the Subdivision Information within the time required, Buyer may, as Buyer's sole remedy, terminate the contract within 3 days after the time required or prior to closing, whichever occurs first, and the earnest money will be refunded to Buyer.

❑ 3.Buyer has received and approved the Subdivision Information before signing the contract. Buyer ❑ does ❑ does not require an updated resale certificate. If Buyer requires an updated resale certificate, Seller, at Buyer's expense, shall deliver it to Buyer within 10 days after receiving payment for the updated resale certificate from Buyer. Buyer may terminate this contract and the earnest money will be refunded to Buyer if Seller fails to deliver the updated resale certificate within the time required.

❑ 4.Buyer does not require delivery of the Subdivision Information.

The title company or its agent is authorized to act on behalf of the parties to obtain the Subdivision Information ONLY upon receipt of the required fee for the Subdivision Information from the party obligated to pay.

B. MATERIAL CHANGES. If Seller becomes aware of any material changes in the Subdivision Information, Seller shall promptly give notice to Buyer. Buyer may terminate the contract prior to closing by giving written notice to Seller if: (i) any of the Subdivision Information provided was not true; or (ii) any material adverse change in the Subdivision Information occurs prior to closing, and the earnest money will be refunded to Buyer.

C. FEES: Except as provided by Paragraphs A, D and E, Buyer shall pay any and all Association fees, deposits, reserves, and [~~or~~] other charges associated with the transfer of the Property not to exceed $_____ and Seller shall pay any excess.

D. DEPOSITS FOR RESERVES: Buyer shall pay any deposits for reserves required at closing by the Association.

E. AUTHORIZATION: Seller authorizes the Association to release and provide the Subdivision Information and any updated resale certificate if requested by the Buyer, the Title Company, or any broker to this sale. If Buyer does not require the Subdivision Information or an updated resale certificate, and the Title Company requires information from the Association (such as the status of dues, special assessments, violations of covenants and restrictions, and a waiver of any right of first refusal), ❑ Buyer ❑ Seller shall pay the Title Company the cost of obtaining the information prior to the Title Company ordering the information.

NOTICE TO BUYER REGARDING REPAIRS BY THE ASSOCIATION: The Association may have the sole responsibility to make certain repairs to the Property. If you are concerned about the condition of any part of the Property which the Association is required to repair, you should not sign the contract unless you are satisfied that the Association will make the desired repairs.

_____ _____

Buyer Seller

_____ _____

Buyer Seller

The form of this addendum has been approved by the Texas Real Estate Commission for use only with similarly approved or promulgated forms of contracts. Such approval relates to this contract form only. TREC forms are intended for use only by trained real estate licensees. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, (512) 936-3000 (www.trec.texas.gov) TREC No. 36-9 [~~36-8~~]. This form replaces TREC No. 36-8 [~~36-7~~].

TREC
TEXAS REAL ESTATE COMMISSION

PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)

THIRD PARTY FINANCING ADDENDUM

TO CONTRACT CONCERNING THE PROPERTY AT

_____

(Street Address and City)

DRAFT

1. TYPE OF FINANCING AND DUTY TO APPLY AND OBTAIN APPROVAL: Buyer shall apply promptly for all financing described below and make every reasonable effort to obtain approval for the financing, including but not limited to furnishing all information and documents required by Buyer's lender. (Check applicable boxes):

❑ A. CONVENTIONAL FINANCING:

❑ (1) A first mortgage loan in the principal amount of $_____ (excluding any financed PMI premium), due in full in _____ year(s), with interest not to exceed _____% per annum for the first _____ year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed _____% of the loan.

❑ (2) A second mortgage loan in the principal amount of $_____ (excluding any financed PMI premium), due in full in _____ year(s), with interest not to exceed _____% per annum for the first _____ year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed _____% of the loan.

❑ B. TEXAS VETERANS LOAN: A loan(s) from the Texas Veterans Land Board of $_____ for a period in the total amount of _____ years at the interest rate established by the Texas Veterans Land Board.

❑ C. FHA INSURED FINANCING: A Section _____ FHA insured loan of not less than $_____(excluding any financed MIP), amortizable monthly for not less than _____ years, with interest not to exceed _____% per annum for the first _____ year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed _____ % of the loan.

❑ D. VA GUARANTEED FINANCING: A VA guaranteed loan of not less than $_____ (excluding any financed Funding Fee), amortizable monthly for not less than _____ years, with interest not to exceed _____% per annum for the first _____ year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed _____% of the loan.

❑ E. USDA GUARANTEED FINANCING: A USDA-guaranteed loan of not less than $_____ (excluding any financed Funding Fee), amortizable monthly for not less than _____ years, with interest not to exceed _____% per annum for the first _____ year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed _____% of the loan.

❑ F. REVERSE MORTGAGE FINANCING: A reverse mortgage loan (also known as a Home Equity Conversion Mortgage loan) in the original principal amount of $ _____ (excluding any financed PMI premium or other costs), with interest not to exceed _____% per annum for the first _____ year(s) of the loan with Origination Charges as shown on Buyer's Loan Estimate for the loan not to exceed _____% of the loan. The reverse mortgage loan ❑ will ❑ will not be an FHA insured loan.

2. APPROVAL OF FINANCING: Approval for the financing described above will be deemed to have been obtained when Buyer Approval and Property Approval are obtained. **Time is of the essence for this paragraph and strict compliance with the time for performance is required.**

A. BUYER APPROVAL *(Check one box only)*:

❑ This contract is subject to Buyer obtaining Buyer Approval. If Buyer cannot obtain Buyer Approval, Buyer may give written notice to Seller within _____ days after the effective date of this contract and this contract will terminate and the earnest money will be refunded to Buyer. If Buyer does not terminate the contract under this provision, the

(Address of Property)

contract shall no longer be subject to the Buyer obtaining Buyer Approval. Buyer Approval will be deemed to have been obtained when (i) the terms of the loan(s) described above are available and (ii) lender determines that Buyer has satisfied all of lender's requirements related to Buyer's assets, income and credit history.

❑ This contract is not subject to Buyer obtaining Buyer Approval.

B. PROPERTY APPROVAL: If Buyer's lender determines that the Property does not satisfy lender's underwriting requirements for the loan (including but not limited to appraisal, insurability, and lender required repairs) Buyer, not later than 3 days before the Closing Date, may terminate this contract by giving Seller: (i) notice of termination; and (ii) a copy of a written statement from the lender setting forth the reason(s) for lender's determination. If Buyer terminates under this paragraph, the earnest money will be refunded to Buyer. If Buyer does not terminate under this paragraph, Property Approval is deemed to have been obtained.

[C. ~~**Time is of the essence for this paragraph and strict compliance with the time for performance is required.**~~]

3. SECURITY: Each note for the financing described above must be secured by vendor's and deed of trust liens.

4. FHA/VA REQUIRED PROVISION: If the financing described above involves FHA insured or VA financing, it is expressly agreed that, notwithstanding any other provision of this contract, the purchaser (Buyer) shall not be obligated to complete the purchase of the Property described herein or to incur any penalty by forfeiture of earnest money deposits or otherwise: (i) unless the Buyer has been given in accordance with HUD/FHA or VA requirements a written statement issued by the Federal Housing Commissioner, Department of Veterans Affairs, or a Direct Endorsement Lender setting forth the appraised value of the Property of not less than $_____ [÷] or (ii) if the contract purchase price or cost exceeds the reasonable value of the Property established by the Department of Veterans Affairs. The 3-day notice of termination requirements in 2.B. does not apply to this Paragraph 4.

A. The Buyer shall have the privilege and option of proceeding with consummation of the contract without regard to the amount of the appraised valuation or the reasonable value established by the Department of Veterans Affairs.

B. If FHA financing is involved, the appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development will insure. HUD does not warrant the value or the condition of the Property. The Buyer should satisfy himself/herself that the price and the condition of the Property are acceptable.

C. If VA financing is involved and if Buyer elects to complete the purchase at an amount in excess of the reasonable value established by the VA, Buyer shall pay such excess amount in cash from a source which Buyer agrees to disclose to the VA and which Buyer represents will not be from borrowed funds except as approved by VA. If VA reasonable value of the Property is less than the Sales Prices, Seller may reduce the Sales Price to an amount equal to the VA reasonable value and the sale will be closed at the lower Sales Price with proportionate adjustments to the down payment and the loan amount.

5. AUTHORIZATION TO RELEASE INFORMATION:

A. Buyer authorizes Buyer's lender to furnish to Seller or Buyer or their representatives information relating to the status of the approval for the financing.

B. Seller and Buyer authorize Buyer's lender, title company, and escrow agent to disclose and furnish a copy of the closing disclosures and settlement statements provided in relation to the closing of this sale to the parties' respective brokers and sales agents provided under Broker Information.

DRAFT

Buyer _____ Seller _____

Buyer _____ Seller _____

This form has been approved by the Texas Real Estate Commission for use with similarly approved or promulgated contract forms. Such approval relates to this form only. TREC forms are intended for use only by trained real estate license holders. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, (512) 936-3000 (http://www.trec.texas.gov) TREC No. 40-9[40-8]. This form replaces TREC No. 40-8[40-7].

PROMULGATED BY THE TEXAS REAL ESTATE COMMISSION (TREC)

11-13-2019 [~~2-12-18~~]

ADDENDUM FOR AUTHORIZING HYDROSTATIC TESTING

EQUAL HOUSING OPPORTUNITY

CONCERNING THE PROPERTY AT: _____
(Street Address and City)

Consult a licensed plumber about the scope of hydrostatic testing and risks associated with the [~~hydrostatic~~] testing before signing this form.

A. **AUTHORIZATION:** Seller authorizes Buyer, at Buyer's expense, to engage a licensed plumber to perform a hydrostatic plumbing test on the Property.

B. **ALLOCATION OF RISK**:

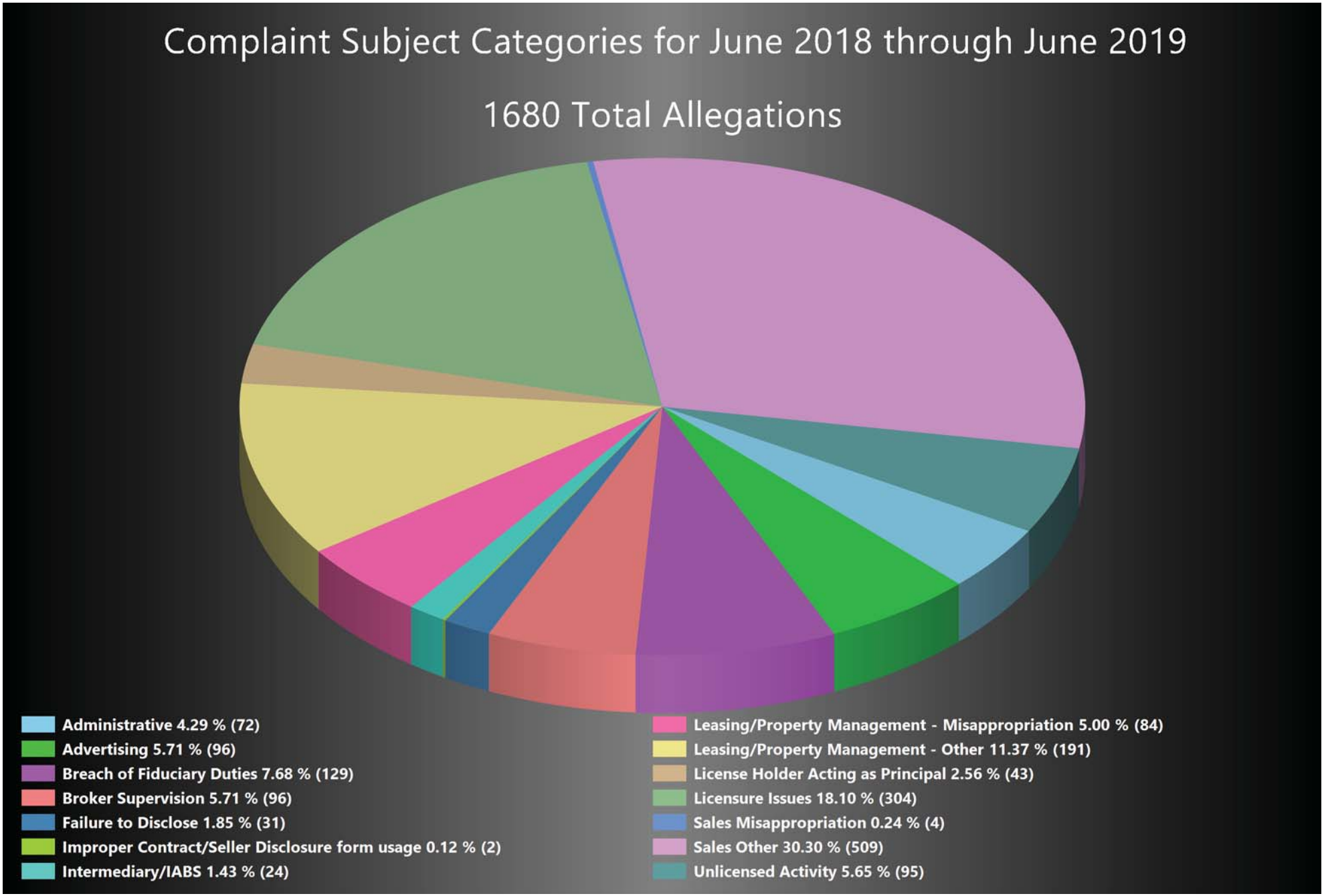
- ❑ (1) Seller shall be liable for damages caused by the hydrostatic plumbing test.
- ❑ (2) Buyer shall be liable for damages caused by the hydrostatic plumbing test.
- ❑ (3) Buyer shall be liable for damages caused by the hydrostatic plumbing test in an amount not to exceed $_____.

DRAFT

_____ _____
Buyer Seller

_____ _____
Buyer Seller

The form of this addendum has been approved by the Texas Real Estate Commission for use only with similarly approved or promulgated forms of contracts. Such approval relates to this contract form only. TREC forms are intended for use only by trained real estate license holders. No representation is made as to the legal validity or adequacy of any provision in any specific transactions. It is not intended for complex transactions. Texas Real Estate Commission, P.O. Box 12188, Austin, TX 78711-2188, (512) 936-3000 (www.trec.texas.gov) TREC No. 48-1 [~~48-0~~].


Complaint Subject Categories for June 2018 through June 2019
1680 Total Allegations
Administrative 4.29 % (72)
Advertising 5.71 % (96)
Breach of Fiduciary Duties 7.68 % (129)
Broker Supervision 5.71 % (96)
Failure to Disclose 1.85 % (31)
Improper Contract/Seller Disclosure form usage 0.12 % (2)
Intermediary/IABS 1.43 % (24)
Leasing/Property Management - Misappropriation 5.00 % (84)
Leasing/Property Management - Other 11.37 % (191)
License Holder Acting as Principal 2.56 % (43)
Licensure Issues 18.10 % (304)
Sales Misappropriation 0.24 % (4)
Sales Other 30.30 % (509)
Unlicensed Activity 5.65 % (95)

Complaint Subject Categories by Month															
Subject Matter Categories	**Jun-18**	**Jul-18**	**Aug-18**	**Sep-18**	**Oct-18**	**Nov-18**	**Dec-18**	**Jan-19**	**Feb-19**	**Mar-19**	**Apr-19**	**May-19**	**Jun-19**	**Total**	**YTD**
Administrative *Bad check, contact information, uncooperative, etc.*	8	5	13	9	2	3	4	3	10	5	3	2	5	72	**4.29%**
Advertising *Includes misleading & dba*	3	10	7	7	9	14	4	5	5	11	5	8	8	96	**5.71%**
Breach of Fiduciary Duty *Including false promise*	3	8	12	3	12	7	3	23	5	3	1	39	10	129	**7.68%**
Broker Supervision	4	10	8	3	12	7	3	21	4	4	10	5	5	96	**5.71%**
Failure to Disclose	5	2	0	2	2	1	1	3	2	4	4	0	5	31	**1.85%**
Improper contract/Seller Disclosure form usage *Including false promise*	0	2	0	0	0	0	0	0	0	0	0	0	0	2	**0.12%**
Intermediary/IABS	1	2	1	2	4	7	1	1	0	0	1	1	3	24	**1.43%**
Leasing/Property Management - Misappropriation	0	0	0	2	12	4	2	1	4	0	12	38	9	84	**5.00%**
Leasing/Property Management - Other *Includes negligence, referral, etc.*	10	11	9	9	19	9	7	24	12	14	6	45	16	191	**11.37%**
License Holder Acting as Principal	3	6	3	0	7	3	3	3	2	2	2	3	6	43	**2.56%**
Licensure Issues *Criminal background check, denials, probationary license, etc.*	30	20	24	17	22	32	15	20	24	30	25	25	20	304	**18.10%**
Sales Misappropriation *Other than Leasing/Property Management - Misappropriation*	1	0	0	0	2	1	0	0	0	0	0	0	0	4	**0.24%**
Sales Other *Includes negligence, rebate, referral, earnest money, etc. (other than Leasing/Property Management - Other)*	42	67	45	35	35	31	27	28	37	36	48	37	41	509	**30.30%**
Unlicensed Activity	2	3	0	5	6	9	1	23	3	1	12	25	5	95	**5.65%**
Total	**112**	**146**	**122**	**94**	**144**	**128**	**71**	**155**	**108**	**110**	**129**	**228**	**133**	**1680**	



Agenda Item 17:

Discussion and possible action to adopt amendments to 22 TAC §531.3, Competency

Summary:

The proposed amendments to 22 TAC §531.3 were published in the May 24, 2019, issue of the *Texas Register* (44 TexReg 2566).

The amendments clarify the definition of competency to conform with recent changes to §535.2, Broker Responsibility, which requires brokers to ensure their sponsored agents have geographic and property type competence.

Comments:

No comments were received.

Staff Recommendation:

Authorize staff, on behalf of the Commission, to submit for adoption, amendments to 22 TAC §531.3, Competency, as published, to the *Texas Register*, along with any technical or non-substantive changes required for adoption.

Motion:

MOVE, that the Commission approve staff's recommendation.

MOVE, that the Commission approve staff's recommendation with the following changes: _____.

MOVE, that the Commission not approve staff's recommendation.

AGENDA ITEM 17
ADOPTED RULE ACTION FROM THE AUGUST 12, 2019, MEETING OF THE COMMISSION
CHAPTER 531 CANONS OF PROFESSIONAL ETHICS AND CONDUCT
§531.3. Competency

§531.3 Competency. It is the obligation of a license holder [~~real estate agent~~] to be knowledgeable and competent as a real estate brokerage practitioner. The license holder must [~~agent should~~]:

(1)be informed on local market issues and conditions affecting [~~the~~] real estate in the geographic area where a license holder provides services to a client [~~business and pledged to continuing education in the intricacies involved in marketing real estate for others;~~;]

(2)be informed on national, state, and local issues and developments in the real estate industry; [~~and~~]

(3)exercise judgment and skill in the performance of brokerage activities [~~the work~~]; and

(4)be educated in the characteristics involved in the specific type of real estate being brokered for others.

TREC

TEXAS REAL ESTATE COMMISSION

Agenda Item 22:

Discussion and possible action to adopt amendments to 22 TAC §535.148, Receiving an Undisclosed Commission or Rebate

Summary:

The proposed amendments to 22 TAC §535.148 were published in the May 24, 2019, issue of the *Texas Register* (44 TexReg 2577).

The amendments provide clarity about consumer protection issues when paying or receiving funds to/from other settlement service providers.

Comments:

Two comments were received on the amendments as published. Each comment addressed the need for change to current practices and neither requested changes to the proposed rule. As such, staff recommends not making any changes.

Staff Recommendation:

Authorize staff, on behalf of the Commission, to submit for adoption, amendments to 22 TAC §535.148, Receiving an Undisclosed Commission or Rebate, as published, to the *Texas Register*, along with any technical or non-substantive changes required for adoption.

Motion:

MOVE, that the Commission approve staff's recommendation.

MOVE, that the Commission approve staff's recommendation with the following changes: _____.

MOVE, that the Commission not approve staff's recommendation.

TEXAS REAL ESTATE COMMISSION

AGENDA ITEM 22
ADOPTED RULE ACTION FROM THE AUGUST 12, 2019, MEETING OF THE COMMISSION
CHAPTER 535 GENERAL PROVISIONS
Subchapter N. Suspension and Revocation of Licensure
§535.148. Receiving an Undisclosed Commission or Rebate

§535.148. Receiving an Undisclosed Commission or Rebate.

(a)A license holder may not receive a commission, rebate, or fee in a transaction from a person other than the person the license holder represents without first disclosing to the license holder's client that the license holder intends to receive the commission, rebate or fee, and obtaining the consent of the license holder's client. [~~This subsection does not apply to referral fees paid by one licensed real estate broker or sales agent to another active licensed broker or sales agent.~~]

(b) - (c)(No change.)

(d)A license holder may not pay or receive a fee or other valuable consideration to or from any other settlement service provider for, but not limited to, the following: [~~A license holder may not accept a fee or payment for services provided for or on behalf of a service provider to a real estate transaction the payment of which is contingent upon a party to the real estate transaction purchasing a contract or services from the service provider~~].

(1)the referral of inspections, lenders, mortgage brokers, or title companies;

(2)inclusion on a list of inspectors, preferred settlement providers, or similar arrangements; or

(3)inclusion on lists of inspectors or other settlement providers contingent on other financial agreements.

(e)In this section, "settlement service" means a service provided in connection with a prospective or actual settlement, and "settlement service provider" includes, but is not limited to, any one or more of the following:

(1)a federally related mortgage loan originator;

(2)a mortgage broker;

(3)a lender or other person who provides any service related to the origination, processing or funding of a real estate loan;

(4)a title service provider;

(5)an attorney;

(6)a person who prepares documents, including notarization, delivery, and recordation;

(7)a person who provides credit report services;

(8)an appraiser;

(9)an inspector;

(10)a settlement agent;

(11)a person who provides mortgage insurance services;

(12)a person who provides services involving hazard, flood, or other casualty insurance, homeowner's warranties or residential service contracts;

(13)a real estate agent or broker; and

(14)a person who provides any other services for which a settlement service provider requires a borrower or seller to pay.

(f)[~~(e)~~] A license holder must use TREC No. RSC-2, Disclosure of Relationship with Residential Service Company, to disclose to a party to a real estate transaction in which the license holder represents one or both of the parties any payments received for services provided for or on behalf of a residential service company licensed under Texas Occupations Code Chapter 1303.

(g)[~~(f)~~] The Texas Real Estate Commission adopts by reference TREC No. RSC-2, Disclosure of Relationship with Residential Service Company,

approved by the Commission for use by license holders to disclose payments received from a residential service company. This document is published by and available from the Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, www.trec.texas.gov.

(h)This section does not prohibit:

(1)normal promotional or educational activity that is not conditioned on the referral of business and that does not involve the defraying of expenses that otherwise would be incurred;

(2)a payment at market rates to any person for goods actually furnished or for services actually performed; or

(3)a payment pursuant to a cooperative brokerage or referral arrangement or agreement between active licensed real estate agents and real estate brokers.

Agenda Item 30:

Discussion and possible action to implement legislative changes enacted in SB 624 and fee changes related to the FY2020 budget and propose amendments and repeal to 22 TAC:

a. §535.101, Fees;
b. §535.210, Fees; and
c. §534.2, Processing Fees for Dishonored Payments (REPEAL)

Summary:

Version A of the amendments to §535.101 and §535.210 eliminate fees to license holders to implement statutory changes enacted by the 86th Legislature in SB 624 as part of the Sunset Review process and the Sunset Advisory Commission's management directives to limit fund growth and provide straightforward fee setting. The amendments also add provisions to address the process for follow-up payment after a dishonored payment, which is currently addressed in a rule proposed for repeal, and the ability of the Commission to place a license on inactive status if payment is not received.

Version B of these amendments additionally eliminates the fee to establish or change a relationship with a sponsoring broker in §535.101 and the fee for changing a license holder's name or to establish a relationship with a sponsoring professional inspector in §535.210.

The language in §534.2 proposed for repeal is also proposed to be added to §535.101 and §535.210 related to fees, with modifications, for purposes of simplification.

Staff Recommendation:

Authorize staff, on behalf of the Commission, to submit Version B of the proposed amendments to 22 TAC §535.101, Fees, §535.210, Fees and proposed repeal of §534.2, Processing Fees for Dishonored Payments, as presented, along with any technical or non-substantive changes required for proposal, to the *Texas Register*, for publication and public comment.

Motion:

MOVE, that the Commission approve staff's recommendation.

MOVE, that the Commission approve staff's recommendation with the following changes: _____.

MOVE, that the Commission not approve staff's recommendation.

TEXAS REAL ESTATE COMMISSION

AGENDA ITEM 30A
PROPOSED RULE ACTION FROM THE AUGUST 12, 2109, MEETING OF THE COMMISSION
CHAPTER 535 GENERAL PROVISIONS
Subchapter J. Fees
§535.101. Fees
VERSION B

§535.101. Fees.

(a) The Commission shall charge and collect the following fees:

(1) a fee of $150 for filing an original or reinstatement application for a real estate broker license, which includes a fee for transcript evaluation;

(2) a fee of $72 for the timely renewal of a real estate broker license;

(3) a fee of $120 for filing an application to step down from a real estate broker license to a real estate sales agent license;

(4) a fee of $150 for filing an original or reinstatement application for a real estate sales agent license, which includes a fee for transcript evaluation;

(5) a fee of $66 for the timely renewal of a real estate sales agent license;

(6) a fee equal to 1-1/2 times the timely renewal fee for the late renewal of a license within 90 days of expiration;

(7) a fee equal to 2 times the timely renewal fee for the late renewal of a license more than 90 days but less than six months after expiration;

[~~(8) a fee of $50 for filing a request for, or renewal of, a license for each additional office or place of business for a period of two years;~~]

(8)[~~(9)~~] the fee charged by an examination provider pursuant to a contract with the Commission for taking a license examination;

(9)[~~(10)~~] a fee of $10 for deposit into the real estate recovery trust account upon the filing of an original sales agent or broker application;

[~~(11) a fee of $10 to establish or change a relationship with a sponsoring broker;~~]

[~~(12) a fee of $20 for filing a request for a license certificate due to a change of place of business or a change of a license holder name:~~]

[~~(A) A change of address or name submitted with an application to renew a license, however, does not require payment of a fee in addition to the fee for renewing the license.~~]

[~~(B) The Commission may require written proof of a license holder's right to use a different name before issuing a license certificate reflecting a change of name.~~]

(10)[~~(13)~~] a fee of $50 to request an inactive broker license be returned to active status;

[~~(14) a fee of $40 for preparing a certificate of active licensure or sponsorship;~~]

(11)[~~(15)~~] a fee of $50 for filing a fitness [~~moral character~~] determination;

(12)[~~(16)~~] a fee of $400 for filing an application for accreditation of a qualifying education program for a period of four years;

(13)[~~(17)~~] after initial approval of accreditation, a renewal fee of $200 a year for operation of a qualifying real estate education program;

(14)[~~(18)~~] a fee of $50 plus the following fees per classroom hour approved by the Commission for each qualifying education course for a period of four years:

(A) $10 for content and examination review;

(B) $10 for classroom delivery design and presentation review; and

(C) $20 for distance education delivery design and presentation review;

15[~~(19)~~] a fee of $400 for filing an application for accreditation as a Continuing Education provider for a period of two years;

16[~~(20)~~] a fee of $50 plus the following fees per classroom hour approved by the Commission for each continuing education course for a period of two years:

(A) $5 for content and examination review;

(B) $5 for classroom delivery design and presentation review; and

(C) $10 for distance education delivery design and presentation review;

(17)[~~(21)~~] the fee required under paragraphs (14)(C)[~~(18)(C)~~] and (16)(C)[~~(20)(C)~~] will be waived if the course has already been certified by a distance learning certification center acceptable to the Commission;

[~~(22) a fee of $150 for filing an application for approval as an instructor for a two-year period for real estate qualifying or continuing education courses;~~]

(18)[~~(23)~~] the fee charged by the Federal Bureau of Investigation and Texas Department of Public Safety for fingerprinting or other service for a national or state criminal history check in connection with a license application [~~or renewal~~];

(19)[~~(24)~~] the fee required by the Department of Information Resources as a subscription or convenience fee for use of an online payment system;

(20)[~~(25)~~] a continuing education deferral fee of $200; and

(21)[~~(26)~~] a late reporting fee of $250 to reactivate a license under §535.93 of this title.[~~;~~]

[~~(27) a fee of $30 for processing a check or other equivalent instrument returned by a bank or depository as dishonored or reversed;~~]

[~~(28) a fee of $20 for filing any application, renewal, change request, or other record on paper that a person may otherwise file with the Commission electronically by accessing the Commission's website, entering the required information online, and paying the appropriate fee; and~~]

[~~(29) a fee of $20 per certification when providing certified copies of documents.~~]

(b) – (c) (No change.)

(d) If a payment to the Commission by or on behalf of a license holder or applicant is dishonored or reversed by a bank or other financial institution, the Commission shall send a request for payment of the dishonored or reversed payment by certified mail to the last known mailing address of the license holder or applicant as shown in the records of the Commission. If the Commission has sent a request for payment in accordance with the provisions of this section, and the license holder or applicant fails to make good on the payment in the form of a cashier's check, money order, or credit card payment within 30 days after the Commission has mailed the request, the license will be placed on inactive status.

(e) Placing a license on inactive status under this section does not preclude the Commission from proceeding under Texas Occupations Code, §1101.652(a)(3), against a license holder who has failed to make good a payment issued to the Commission within a reasonable time.



Agenda Item 32:

Discussion and possible action to implement legislative changes enacted in SB 624 eliminating branch office and instructor licenses and propose amendments and repeal to 22 TAC:

a. §535.57, Examinations;
b. §535.60, Definitions;
c. §535.67, Qualifying Education: Compliance and Enforcement;
d. §535.70, Definitions;
e. §535.72, Approval of Non-elective Continuing Education Courses; and
f. §535.112, Branch Office (REPEAL)

Summary:

The proposed amendment to §535.57 removes instructors from the list of those who can be disciplined for prohibited conduct during an examination. This change is part of a wider requirement to remove instructor oversight by the Commission pursuant to statutory changes enacted by the 86th Legislature in SB 624 as part of the Sunset Review process.

The proposed amendments to §535.60 changes the definition of "Instructor" to conform to statutory changes.

The proposed amendments to §535.67 eliminates the requirement of providers to use instructors approved by the Commission as required by SB 624.

The proposed amendments to §535.70 changes the definition of "CE Instructor" to conform to statutory changes.

The proposed amendment to §535.72 eliminates the requirement of continuing education providers to use instructors approved or certified by the Commission as required by SB 624.

The proposed repeal of §535.112 implements statutory changes in SB 624 Specifically, the amendments eliminate the branch office license.



Staff Recommendation:

Authorize staff, on behalf of the Commission, to submit the proposed amendments to 22 TAC §535.57, Examinations; §535.60, Definitions; §535.67, Qualifying Education: Compliance and Enforcement; §535.70, Definitions; §535.72, Approval of Non-elective Continuing Education Courses; and repeal of §535.112, Branch Office, as presented, along with any technical or non-substantive changes required for proposal, to the *Texas Register*, for publication and public comment.

Motion:

MOVE, that the Commission approve staff's recommendation.

MOVE, that the Commission approve staff's recommendation with the following changes: _____.

MOVE, that the Commission not approve staff's recommendation.



AGENDA ITEM 32F
PROPOSED RULE REPEAL ACTION FROM THE AUGUST 12, 2019, MEETING OF THE COMMISSION
CHAPTER 535 GENERAL PROVISIONS
Subchapter K. Place of Business
§535.112. Branch Office

[**§535.112. Branch Office.** A broker shall apply for a branch office license if the broker maintains more than one place of business. A "place of business" means a place where the license holder meets with clients and customers to transact business. A license is required for each branch office maintained by the broker, and the license certificate for each branch office must display the address at which the broker's office is located.]

What did TREC do?

May 09, 2019 | Texas REALTORS® Staff



The May 6 Texas Real Estate Commission meeting covered 47 agenda items. See the full agenda and materials here, and read below for highlights relevant to your business.

Competency

One proposal to amend TREC rule §531.3would make clear that license holders must be knowledgeable about local market issues in the geographic area in which they work and the characteristics involved in the specific type of property being sold or leased. Per TREC: “The proposed amendments clarify the definition of competency to conform with recent changes to §535.2, Broker Responsibility, which requires brokers to ensure their sponsored agents have geographic and property-type competence.”

Instructor Approval

As a result of a recommendation by the Sunset Advisory Commission, the Texas Legislature is considering passage of a bill that would eliminate TREC’s authority to approve instructors. Accordingly, the commission proposed amendments to the rules to reflect this change. TREC will still determine qualifications that an instructor of a TREC-approved course must meet, but the instructor will be approved by the education provider. In terms of those instructor qualifications, TREC has proposed eliminating the

8-hour adult education instructor training course required within four years of an application to teach qualifying or non-elective continuing education courses.

Payments Between Settlement Service Providers

The proposed amendments to §535.148 would provide clarity about federal law prohibiting the paying or receiving of funds to other settlement service providers defined by RESPA. TREC currently has a rule that includes these provisions for inspectors, but not explicitly for other real estate license holders.

All the proposed rule changes will be posted in an upcoming Texas Register, after which the public will have 30 days to comment. Once published in the register, you can send comments to general.counsel@trec.texas.gov.

Consumer Complaints

The commission adopted a new rule that places the process for consumer complaints in one place: §535.142. This action does not change how consumer complaints are handled. It makes it easier to access that information.

Actions from TREC's August Meeting

August 15, 2019 | Texas REALTORS® Staff



The August 12 Texas Real Estate Commission meeting covered 45 agenda items spread over 472 pages of meeting materials. See the full agenda and materials at TREC's website, and read below for highlights relevant to your business.

Adopted Rules

Eliminated consideration of student loan default: Emergency amendments were adopted to §535.91, Renewal of a Real Estate License, which removed references to student loan default. This change was due to Senate Bill 37, passed by the 86th Texas Legislature and signed by the governor removes consideration of a student loan default as grounds to deny a license or license renewal.

Added geographic and property-type competency: TREC rule §531.3 was amended to make clear that license holders must be knowledgeable about local market issues in the geographic area in which they work and the characteristics involved in the specific type of property being sold or leased. Penalties for violating this requirement were added to §535.191, with a range of $500-3,000.

Education providers now approve instructors: The Texas Legislature removed TREC's authority to approve instructors. Therefore, the commission adopted amendments to the rules to reflect this change. TREC will still determine qualifications

that an instructor of a TREC-approved course must meet, but the instructor will be approved by the education provider. These amendments affect §535.63, §535.65, §535.74, and §535.75. The commission also eliminated the 8-hour adult education instructor training course required within four years of an application to teach qualifying or non-elective continuing education courses.

Undisclosed commission or rebate updates: TREC rule §535.148, Receiving an Undisclosed Commission or Rebate, was amended to conform with the federal Real Estate Settlement and Procedures Act (RESPA) and a similar provision in the rules applying to inspectors.

Proposed Rules Changes

Here are some of the changes proposed August 12, many of which were necessitated by action during the 2019 legislative session. Download the meeting materials to see all the proposals, which will be discussed again at the November TREC meeting.

- **§535.112, Branch Office:** As a result of Senate Bill 624, a branch office license is no longer required as of September 1, 2019. Therefore, proposed changes were made to TREC rules to remove references to a branch office license. For more information about this change, you can visit TREC's website.
- **§535.101, Fees:** The proposed amendments eliminate fees for a branch office license, establishing or changing a relationship with a sponsoring broker, change of address or name, an active license certificate, instructor approval, submitting paper application or forms, and certified copies. The fee for dishonored checks is also removed; however, the proposed rule would create a process for requesting payment and allowing the commission to place a license on inactive status if payment isn't received.
- **§535.51, General Requirements for a Real Estate License:** The Texas Legislature removed the residency requirement for real estate license eligibility. The proposed amendment removes that requirement from the rule and removes references to service members to incorporate them in a new section, §535.58, License for Military Service Members, Veterans, or Military Spouses.

All the proposed rule changes will be posted in an upcoming Texas Register, after which the public will have 30 days to comment. Once published in the register, you can send comments to general.counsel@trec.texas.gov.

Proposed Forms Changes

The commission proposed changes to its contract forms.

Language was added to Paragraph 4 to address leases to which the seller is a party and requires the seller to acknowledge that the buyer has received a copy of all leases or will receive a copy within three days after the effective date. The buyer may terminate the contract after receipt of the leases within a period of days set in the contract.

Paragraph 4 also prohibits the seller from executing any new lease or amending any lease without buyer's written consent after the effective date of the contract. The language of existing Paragraph 4 was moved to the end of Paragraph 8.

Language was deleted from the Broker Information page of all contracts except the Farm and Ranch Contract: "Listing Broker has agreed to pay Other Broker ___ of the total sales price when the Listing Broker's fee is received. Escrow agent is authorized and directed to pay Other Broker from Listing Broker's fee at closing."

These proposed changes affect the following forms. Click here to see redlines:

- *Unimproved Property Contract*
- *One to Four Family Residential Contract (Resale)*
- *New Home Contract (Incomplete Construction)*
- *New Home Contract (Completed Construction)*
- *Farm and Ranch Contract*
- *Residential Condominium Contract (Resale)*

Changes were proposed to the *Addendum for Property Subject to Mandatory Membership in a Property Owners Association*. It was amended to add deposits and reserves to the list of payments the buyer will make in association with the transfer of the property. See the redline.

Changes were proposed to the *Third Party Financing Addendum*. It was amended to clarify that the three-day notice requirement in Paragraph 2B does not apply to Paragraph 4. See the redline.

Changes were proposed to the *Addendum for Authorizing Hydrostatic Testing*. It was amended to include a reference to the scope of hydrostatic testing in the top sentence. See the redline.

You can send comments on the proposed form changes to general.counsel@trec.texas.gov. The earliest the form changes could be adopted is November.

Oldmixon to Retire

After 10 years leading the Texas Real Estate Commission, Executive Director Douglas Oldmixon announced his retirement. During Oldmixon's tenure at the commission, the agency improved broker responsibility, raised education standards, modernized rules, enhanced consumer protections, and improved its service to license holders. Texas REALTORS® thanks the executive director for his leadership.



Mondics Insurance Group, Inc.

Texas Workers' Compensation Insurance and Non-Subscribers: Are You Exposed? Are You Covered?

SHOULD I CARRY ON-THE-JOB INJURY COVERAGE FOR MY AGENTS AND EMPLOYEES?

Typical claims are automobile accidents and slips and falls.

WHAT IS HAPPENING IN OTHER STATES SUCH AS CALIFORNIA?

DYNAMEX
ZIPREALTY
OWNERS.COM

UBER UNINTENDED CONSEQUENCES ON ALL IC'S

ABC RULE

You do not direct or control how a worker performs or accomplishes the work desired.

The work performed is outside of the hiring entities' main business, such as an electrician that comes to fix a light switch in your office.

The worker is customarily engaged in an independently established trade occupation or business.

OPTIONS FOR COVERAGE IN TEXAS:

Workers Compensation v. Non Subscription

WHAT IS WORKERS COMPENSATION?

State regulated system that covers medical bills and some lost wages for employees injured on the job. If purchased, workers compensation Texas law limits the employers' liability for work-related injuries.

WHAT IS NON SUBSCRIPTION?

An employer declines to participate in the work compensation system and typically purchases some type of accident and health insurance covering medical bills and lost wages and accidental death and dismemberment coverage.

DIFFERENCE IN COVERAGE

Workers Compensation v. Non Subscription

There are many. If an injured worker can prove negligence on the part of the employer, the employer could be subject to damage awards including punitive damages. Non subscribers also lose three important common law defenses:

- **Employees Negligence**
- **Fellow Employee Caused the Injury**
- **Assumption of Risk /Danger**

DO I HAVE TO FILE A NOTICE OF NON COVERAGE?

WHO MUST FILE THE DWC FORM-005?

You must file the DWC Form-005 if you do not have workers compensation insurance, or you have terminated your workers compensation insurance coverage.

However, if your only employees are exempt from coverage under the Texas Workers Compensation Act (for example, certain domestic workers, and certain farm and ranch workers) you do not have to file.

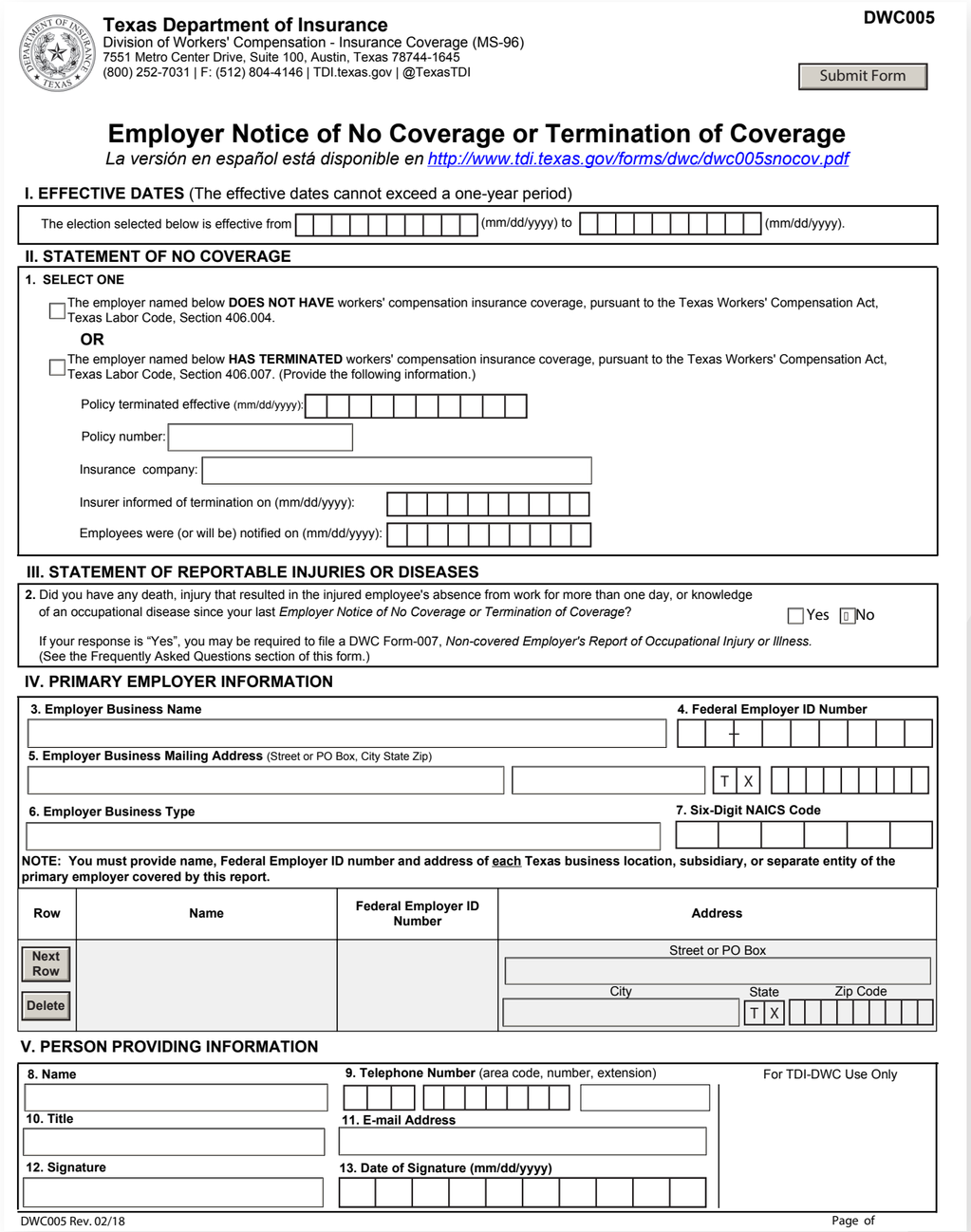
Failure to file the form when required may subject the employer to administrative penalties.

DO I HAVE TO FILE A NOTICE OF NON COVERAGE?

WHEN DO I FILE THE DWC FORM-005?

You must file a separate DWC Form-005 each time one of the following conditions exists:

- **Annually** between February 1st and April 30th of each calendar year
- **Within 30 Days** of hiring your first employee, unless this due date falls between February 1st and April 30th and you submit the form within this time period.
- **Within 10 Days** of receiving a request (to file the DWC Form-005) from DWC.



Texas Department of Insurance
Division of Workers' Compensation - Insurance Coverage (MS-96)
7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645
(800) 252-7031 | F: (512) 804-4146 | TDI.texas.gov | @TexasTDI

DWC005

Submit Form

Employer Notice of No Coverage or Termination of Coverage

La versión en español está disponible en http://www.tdi.texas.gov/forms/dwc/dwc005snocov.pdf

I. EFFECTIVE DATES (The effective dates cannot exceed a one-year period)

The election selected below is effective from ☐☐☐☐☐☐☐☐ (mm/dd/yyyy) to ☐☐☐☐☐☐☐☐ (mm/dd/yyyy).

II. STATEMENT OF NO COVERAGE

1. SELECT ONE

☐ The employer named below **DOES NOT HAVE** workers' compensation insurance coverage, pursuant to the Texas Workers' Compensation Act, Texas Labor Code, Section 406.004.

OR

☐ The employer named below **HAS TERMINATED** workers' compensation insurance coverage, pursuant to the Texas Workers' Compensation Act, Texas Labor Code, Section 406.007. (Provide the following information.)

Policy terminated effective (mm/dd/yyyy): ☐☐☐☐☐☐☐☐

Policy number:

Insurance company:

Insurer informed of termination on (mm/dd/yyyy): ☐☐☐☐☐☐☐☐

Employees were (or will be) notified on (mm/dd/yyyy): ☐☐☐☐☐☐☐☐

III. STATEMENT OF REPORTABLE INJURIES OR DISEASES

2. Did you have any death, injury that resulted in the injured employee's absence from work for more than one day, or knowledge of an occupational disease since your last *Employer Notice of No Coverage or Termination of Coverage*? ☐ Yes ☐ No

If your response is "Yes", you may be required to file a DWC Form-007, *Non-covered Employer's Report of Occupational Injury or Illness.* (See the Frequently Asked Questions section of this form.)

IV. PRIMARY EMPLOYER INFORMATION

3. Employer Business Name

4. Federal Employer ID Number

5. Employer Business Mailing Address (Street or PO Box, City State Zip)

T X

6. Employer Business Type

7. Six-Digit NAICS Code

NOTE: You must provide name, Federal Employer ID number and address of each Texas business location, subsidiary, or separate entity of the primary employer covered by this report.

Row	Name	Federal Employer ID Number	Address
Next Row / Delete			Street or PO Box; City; State (T X); Zip Code

V. PERSON PROVIDING INFORMATION

8. Name

9. Telephone Number (area code, number, extension)

10. Title

11. E-mail Address

12. Signature

13. Date of Signature (mm/dd/yyyy)

For TDI-DWC Use Only

DWC005 Rev. 02/18

Page of

DO I HAVE TO FILE A NOTICE OF NON COVERAGE?

https://www.tdi.texas.gov/forms/dwc/dwc005nocovst.pdf

DO I HAVE TO FILE A NOTICE OF NON COVERAGE?

HOW DO I DETERMINE MY FILING START DATE? USE MAY 1 UNLESS:

1. You have never filed a DWC Form-005, then the start date is the first day you did not have coverage (see either #2 or #3 to determine the specific date).

2. You terminated workers' compensation insurance coverage, then the start date is the first date you did not have coverage.

3. You hired your first employee, then the start date is the first day the employee started working.

DO I HAVE TO FILE A NOTICE OF NON COVERAGE?

HOW DO I DETERMINE MY FILING PERIOD END DATE? USE APRIL 30, UNLESS:

You purchased, or plan to purchase a workers' compensation insurance policy, then the End Date is the last date you did not, or will not, have coverage.

HOW/WHEN MUST A NON-SUBSCRIBER NOTIFY EMPLOYEES THAT WORKERS' COMPENSATION COVERAGE IS NOT PROVIDED?

You must post the Notice to Employees Concerning Workers Compensation in Texas in the workplace in English, Spanish and any other language common to the employer's employee population in the print type specified by DWC rules whenever you:

1. Elect to not have workers' compensation insurance;
2. Cancel or terminate workers' compensation insurance;
3. Withdraw from certified self-insurance; or
4. Have workers' compensation coverage canceled by the insurance company.

HOW/WHEN MUST A NON-SUBSCRIBER NOTIFY EMPLOYEES THAT WORKERS COMPENSATION COVERAGE IS NOT PROVIDED?

You must also provide this notice to each employee:

1. At the time of hire;
2. When the employer elects to not have workers' compensation insurance;
3. Within 15 days of notification to the insurance carrier that the employer is terminating coverage unless the employer maintains continuous coverage under a new policy or becomes a certified self-insurer; or
4. Within 15 days of cancellation by the insurance company.

PRICING ILLUSTRATION OF WORKERS COMPENSATION

Account: Real Estate Agency Agent: MONDICS INSURANCE GROUP INC

Effective Date: 07/31/2019 - 07/31/2020

Workers' Compensation Premium **$631.00**

Terrorism **$67.00**

Total Quoted Premium **$698.00**

Total Account Payroll: **$280,000**

Premium is based on estimated payroll and subject to annual audit.

PRICING ILLUSTRATION OF WORKERS COMPENSATION

Account: Real Estate Agency Agent: MONDICS INSURANCE GROUP INC

Effective Date: 07/31/2019 - 07/31/2020

Workers' Compensation States Covered: **Texas**

LIMITS OF INSURANCE

Coverage A – Workers' Compensation Statutory

Coverage B – Employer's Liability

Bodily Injury by Accident $1,000,000 each accident

Bodily Injury by Disease $1,000,000 policy limit

Bodily Injury by Disease $1,000,000 each employee

Coverage C - Other States Except: ND, OH, WA, WY

PRICING ILLUSTRATION OF WORKERS COMPENSATION

8742 Real Estate Agency	$0.08	250,000	$200
8810 Clerical Office Employees	$0.04	30,000	$12
Total Class Premium $212			
Increase Limits (.014) (Basis: 212)			$3
Minimum Difference			$ 147
Total Subject Premium $362			
Schedule Modification (.08) (Basis: 362)			$29
Health Care Network Credit (-.05) (Basis: 391)			-$20
Standard Total Premium			$371
Expense Constant			$260
Terrorism (.024 per $100 of Payroll) (Basis: 280,000)			$67
Total State Premium $698			

Q&A



Have questions? We've got answers.

GET IN TOUCH

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